

LOCAL GOVERNMENT RURAL LAND USE PLANNING IN B.C.

By

TERRY JOHNSTON

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Department of Community & Regional Planning
The University of British Columbia
Vancouver, Canada

Date 90/10/05

ABSTRACT

The objectives of this study are threefold:

1. to provide an understanding of the need for rural land use planning;
2. to describe and compare British Columbia's, Alberta's, Ontario's and Saskatchewan's current system for rural land use planning; and
3. if applicable, suggest improvements to B.C.'s rural planning process as a result of the research conducted.

A historical review of the need for rural planning and land use controls has been conducted in conjunction with research into present day trends. In addition, regional district officials from around the province were contacted in order to obtain their views on rural planning in B.C. This research establishes the need for rural planning, but raises questions about the public's perception of the planning process.

To obtain information on alternative planning processes, research is conducted on rural planning in Alberta, Ontario, and Saskatchewan. This information is then evaluated through a

comparative analysis with the planning process used prior to Bill 62 and the new Rural Land Use Bylaw. The evaluation concludes that the Rural Land Use Bylaw is preferred over the pre-Bill 62 planning legislation.

Incorporating what has been learned in previous chapters, this study concludes by presenting suggestions for amending the existing legislation in order to further simplify the planning process. Additional areas for new research are also detailed in order that planners can strive for a more flexible and responsive planning process to serve the rural public.

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CHAPTER 1

1.0 INTRODUCTION

1.1 PROBLEM STATEMENT

The needs and challenges of rural land use planning are different from land use planning in metropolitan areas. The primary justification for land use planning in metropolitan areas is to guide the complex interactions that take place as a result of a greater population density.

Planning in rural areas is significantly different as:

1. There are large scale natural resource issues that must be dealt with for the 'Public Good', to the possible detriment of the rural land owners. For example, through the Agricultural Land Commission Act there is a province wide preservation of the agricultural land base that restricts individual freedom pertaining to the development and use of property;
2. Depending on the locale, there can be a number of environmental concerns, such as preventing soil erosion, halting weed proliferation, utilizing acceptable methods of pesticide application and maintaining water resources that are peculiar to rural areas;
3. Due primarily to the relatively large parcel sizes, and being independent of most community services, there appears to be a difference in interpersonal relationships. People rely on their

neighbours to a far greater extent than in metropolitan areas, doors are frequently left unlocked with the understanding that if there is a need- an individual may help themselves to food or lodging. In some instances, such as during the winter cold spells in the north, a persons life may depend on this type of interpersonal relationship;

4. The attitude of rural residents towards government regulations and 'experts' also appears to be less tolerant than that of metropolitan residents.

The objectives of this study are threefold. An attempt will be made to:

- a) provide an understanding of the need for rural land use planning;
- b) detail British Columbia's, Alberta's, Ontario's and Saskatchewan's current administrative process for rural land use planning. Of specific interest is how each province deals with land use conflicts, and their ability to promote the efficient development of privately owned or controlled land while ensuring the satisfaction of rural residents; and
- c) if applicable, suggest improvements to the administration of B.C.'s rural planning process as a result of information obtained through a comparative analysis with the administrative process detailed for Alberta, Ontario, and Saskatchewan

1.2 Background

The authority for the implementation of land use controls in Canada

derives from the British North America Act which was passed in 1867. Through this Act, distribution of legislative power was achieved. The powers granted to the provincial governments under section 92 were diverse- covering items ranging from direct taxation to all matters of a local or private nature.

Of importance to this study is the provincial government's authority to implement laws in relation to Municipal institutions, property and civil rights. It is through this section of the B.N.A. Act that the authority to implement land use controls is delegated to local government, through the B.C. Municipal Act.

However, prior to a discussion on rural land use controls, it should be noted that the Canadian public does not generally understand about their rights in the ownership of real property. Statements abound at public information meetings or public hearings such as 'it's my property and I will do what I like with it'.

In reality, there is no absolute private right to 'real' property in Canada. As in most Common Law Countries, we are governed by two basic doctrines in law, specifically:

1. "the doctrine of tenures: all land is held of the Crown, either directly or indirectly, on one or other of the various tenures; and
 2. the doctrine of estates: a subject cannot own land, but can merely own an estate in it, authorizing him to hold it for some period of time "
- (Megarry, R.E., The Law of Real Property, 1947, p.8).

This means that in some sense all land in Canada is owned by the Crown. By "Crown" , we of course mean the Monarch acting as Head of State on the advice of the ministers of Her duly elected government. It was this concept of ownership that gave strength to the provincial government's actions to preserve what was perceived to be a diminishing resource by implementing the Agricultural Land Commission Act to control the subdivision or non-farm use of land capable of agricultural production.

However, the misconception of the people must be recognized and taken into consideration, especially when developing land use controls at the local or regional level. Public acceptance of controls is necessary for them to be effective. If acceptance is not achieved, it places locally elected public officials in the precarious position of deciding whether 'planning principles' are more important than the support of their constituents.

The planning profession in British Columbia appears to have either neglected to educate the rural public on the 'worth' of planning, or ignored the need to gain public acceptance of planning proposals. In 1985 the provincial legislature enacted Bill 62, which made widespread changes to the Municipal Act. Of particular importance to this study was the implementation of the planning tool that is known as the Rural Land Use Bylaw (RLUB).

Prior to the implementation of the legislation for the Rural Land Use Bylaw, there was a public perception in rural areas that:

- 1."increased governmental regulation will result in a loss of rural lifestyle;
2. increased bureaucracy results in increased taxes;
3. zoning regulations are designed for urban areas and do not consider rural values. " (Anderson, 1985)

Indirectly, this perception caused the implementation of Bill 62. The main authors of the Rural Land Use Bylaw, Elizabeth Cull and Erik Karlsen of the Ministry of Municipal Affairs, were interviewed to determine how the new legislation was developed.

These individuals indicated that its development was in response to their perceived interpretation of a political reality. The new legislation was not at the specific request of the then Minister of Municipal Affairs, the Honourable Bill Ritchie, however, it was portrayed that Mr. Ritchie's well known position (and for that matter the provincial government of the day's position) that planning had a tendency to create unnecessary bureaucracy and regulations did influence their decision to review the existing legislation.

As a result, the Development Services Branch began to actively review their policies and procedures in order to respond to the concerns of their Minister. According to Cull a basic draft for the RLUB was generated through a simple analysis of the pre-Bill 62 planning process that involved the development of the conceptual changes required to compensate for the perceived flaws in the existing legislation.

The intent of the Ministry in the development of the Rural Land Use Bylaw was to create a planning 'instrument' which would be easy to understand, use and amend. It was intended to simplify the planning process (in relation to the pre-Bill 62 planning approach) so that the general public would understand and accept basic planning principles. As a result, the RLUB was designed to present:

1. one bylaw, presented in a single document;
2. one set of land use designations, instead of the two step concept of settlement plan designation and land use zones;
3. broad land use categories which do not highly segregate land use, in order to provide greater flexibility to respond to local initiatives; and
4. simplified regulations. (A Guide to Rural Land Use Planning, 1986 p.3)

This study will attempt to determine if the RLUB succeeds in meeting the intent of the Ministry "... to provide a more flexible, less regulator approach to planning in rural areas... in a more straight-forward way." (Ibid p.2). Contact with professionals practicing in the field will play a significant part in this evaluation. Even if it's acceptable to the Ministry, the success of any planning tool is dependent upon the perceptions of professionals in the field, the acceptance of it by the public, and achievement of its stated goal, whether it be to reduce conflict or promote development.

1.3 Methodology and Scope

The methodology to be utilized in the completion of the research is:

1. confirm, through literature research and contact with professionals presently working in the field, the need for rural land use controls in unincorporated areas. The contact with professionals will be done in person, and through a written survey (Attachment 1);
2. literature research, and telephone contact with professionals, on the administrative process for the implementation of rural land use planning in Alberta, Ontario and Saskatchewan;
3. research and detailing of the features of the RLUB by reviewing provincial government legislation, and participatory observation of the RLUB through preparation of the first draft of the Farleigh Lake Shatford Creek Rural Land Use Bylaw in the Okanagan-Similkameen Regional District;
4. conduct a comparative analysis of the RLUB with alternative accepted methods of rural land use control in Canada.

This research is presented in the following chapters. In Chapter 2, the need for rural land use planning will be established. It also illustrates how rural planning has changed conceptually over the past 80 years, and presents the opinions of professionals presently practicing in B.C.

Chapter 3 illustrates how the administrative structures of the provinces of Alberta, Ontario and Saskatchewan have developed to deal with rural planning problems and issues. The discussion also focuses on the main

planning 'instruments' utilized by professionals, and the process for their creation and implementation.

For comparison purposes, Chapter 4 details the administrative structure that has been developed to deal with rural land use issues in B.C. Since Bill 62 introduced significant changes to rural land use planning that have yet to be proven as effective, the discussion focuses on planning in the pre and post 1985 period.

Chapter 5 presents a comparative analysis of the administrative structures and planning processes in B.C., Alberta, Saskatchewan and Ontario. Comments arising from the survey of regional district planners that pertain to B.C.'s current planning process are presented to support the opinions of this author when conducting the analysis.

Chapter 6, the final chapter of this paper, concludes with a discussion of possible alternatives to overcome the weaknesses in B.C.'s planning / administrative process .

CHAPTER 2

THE NEED FOR RURAL LAND USE PLANNING

2.0 Introduction

The intent of this chapter is to illustrate the need for rural land use planning. The discussion starts with the basics by detailing the thoughts of Canada's foremost pioneer in rural planning- Thomas Adams. Although the concerns expressed by Adam's may have been applicable for the 1900's, there has been a changing emphasis in rural planning over the past eighty years which is outlined in Section 2.2.

This chapter concludes with three sections titled:

- the tangible & intangible benefits associated with Rural Planning;
- a rationale for planning; and
- a rationale for the public's impression of planning.

The purpose of these three sections is to provide a clarification of the need for rural land use planning. Each section adds a perspective which, when considered as a 'whole', confirms the validity of the need for rural planning.

2.1 The Early 1900's

The need for rural land use planning has long been a topic of discussion in professional circles. As early as 1917, Thomas Adams was delineating

the problems Canada faced in the development of its rural areas. Specifically Adams, in his publication titled 'Rural Planning and Development' (1917) was concerned about the problems associated with land speculation and taxation.

It was Adam's belief that speculation stimulates enterprise and the spirit of optimism necessary to overcome obstacles during a country's pioneer stage. However, he believed that upon the completion of this stage, "speculation takes on new and injurious forms" (p. 102). Specifically, "socially created values are inflated and exploited and monopolies in natural resources are established" (Ibid).

One of the main problems of speculation identified by Adams was absentee ownership of land. Adams noted that absentee ownership for speculative purposes results in:

1. generally, the most fertile land in rural areas remaining idle and unproductive;
2. the inflation of land values near transportation facilities;
3. the reduction of the farmer's working capital as a result of the high purchase price for land;
4. the increased cost for the development of an infrastructure to provide sanitary or fire protection arrangements because buildings are too widely scattered.

To support these claims, it was noted that "... of about 100,000,000 acres of arable land granted to homesteaders, railway corporations, the Hudson's

Bay company, and other private interests, only one-third was being used for productive purposes" (p. 104).

Speculation, and the resulting inflated land values, also had an impact on the independent land owner with limited resources. Increased land values increase the assessment of the land for taxation purposes and thus increase the tax burden. Adams was an advocate of tax reform to alleviate this burden. However, the problems associated with taxation are outside the terms of reference for this thesis.

The thrust of this thesis deals with the need for rural planning which is a partial solution that was supported by Thomas Adams. Because of the 'evils' of speculation, Adams firmly believed that "the time had come, not only for municipalities in Canada to cease to be bankers for real estate operators, but for the municipalities to make it obligatory that the local improvements necessary to provide certain minimum standards of sanitation and convenience of access should be provided before lots are put on the market for assessment purposes" (p.117).

Adams saw this being accomplished in rural districts through:

1. the implementation and enforcement of building bylaws;
2. the implementation and enforcement of sanitary bylaws; and
3. the planning of suburban areas and proper regulation of building development under statutory development schemes.

Adams' perception of a statutory development scheme clearly involved

analysis of development proposals by competent professionals. It also dealt with problems specific to individual properties, and incorporated the concept of a type of 'master plan' that is applied generally to a larger area. Therefore, his concept was not very different from the various planning approaches utilized in B.C. today.

2.2 The Changing Emphasis in Rural Planning

Since Adams presented his research, there has been both a demographic and attitudinal change among rural residents. These changes have altered the emphasis for rural planning.

1. The National Outlook

On a national scale, Adams saw the need for regulations to promote the orderly development or exploitation of rural land for the purpose of developing Canada as a country. He believed that "wealth is produced not from the existence of natural resources but from the conversion of these resources into some form for human use" (p.4) and that Canada was "...opening a new era of social construction and national expansion, and the question was not whether we will grow but how we will grow" (p.1).

As evidenced in the publication titled 'Rural Planning Problems' edited by Gordon E. Cherry (1976), the thrust for regulating rural land has changed from exploitation to conservation. Although this publication refers to Britain rather than Canada, parallels can be drawn to our present level of development, and the issues faced in many areas of Canada.

On a national/provincial level, there is increased opposition to the exploitation of the environment. This is largely the result of:

1. The general public becoming aware of the concept of non-renewable resources and the dangers of over-exploitation. The single most important event responsible for reinforcing this concept was probably the oil embargo of the early 70's. However, the news media continually provides other graphic examples of misuse around the world. Two such examples in the news recently are the desertification of Ethiopia and the loss of the Amazon rain forest;
2. The population of Canada achieving a relatively high standard of living.

As a nation, we are in a position to consider the trade-off's necessary when contemplating resource development. Today, there is a need, not experienced in Adams' time, for an environmental assessment to be conducted prior to the implementation of most major developments. If an assessment is not done, or if the assessment is not comprehensive, there are numerous public interest or 'watchdog' organizations (such as Greenpeace) to raise objections. As a result, there are usually well organized protests to development proposals affecting rural land or communities. Some examples of controversial issues in B.C. at the present time are:

- the development of land with agricultural potential for non-agricultural activities such as golf courses, residential development,

- etc. This emphasizes the degree of public concern today, as the B.C.A.L.R. regulations actually permit the construction of golf courses;
- the preservation of the 'old growth' in the coastal rainforest, and most recently loss of the visual amenities in the Tofino area as a result of clear cut logging; and
 - the flooding of the Peace River Valley through the construction of the Site C dam.

.2 Rural/Urban vs Urban/Rural Migration

Adams also expressed concern over the migration of rural residents to urban centers. The extent of people's unwillingness to live in the country in 1917 is illustrated by the lack of success of the land development program offered to soldiers returning from the First World War. The government of the day was optimistic that by offering returning soldiers land and assisting in equipment purchases, large portions of the country would be developed for agricultural purposes.

However, Adams was one individual who believed that government officials were being overly optimistic. He believed that a population influx to the country would be difficult to generate, as such an influx was contrary to the recognized trend of rural residents moving to urban centers. The preliminary responses from men returning from the war supported Adams' concerns. Of the first soldiers that returned, only 1 in 50 expressed any desire to take advantage of the programs the government was offering. This was far below the rate expected by the government.

Today, there has been a partial reversal of the migratory trend towards urban centers, which has resulted in a change of attitude of the rural residents. This trend reversal is supported by Gordon Cherry (1976) who describes problems experienced "... in the urban fringe where population displacement is taking place as city dwellers seek out rural housing stock and otherwise overwhelm an old village's physical fabric and community structure with new buildings and social groups of a different type."(p.8)

In a paper titled 'Recent Developments in North American Rural Planning' by Lapping & Clemenson (1984), it is also stated that "in essence there has been a rural revival, a significant change in settlement patterns, a reversal of the rural-to-urban population flow and an increase of non-farm residents in rural areas." (p.1) Ian Hodge (1986) takes this trend even further and states that "this phenomenon is now recognized to be widespread and to be more than solely a consequence either of overspill of urban areas into those designated rural, or of a rise in the extent of commuting to urban centers" (Rural Development and the Environment, p. 176).

This reversal of the traditional population migration, although not foreseen by Adams, does illicit the same concern Adams expounded about land speculation. The purchasing of rural land by urban residents tends to drive land values up. Thus, as in 1917, the increased value of land makes it difficult for land to be utilized for traditional rural activities of farming or ranching by individual land owners.

The partial trend reversal in the rural population appears to be the result

of several factors. Primarily, it is attributed to a combination of:

1. increased ability to commute to urban centers for employment;
2. retirement migration to rural areas;
3. the purchasing of a second 'rural' home for recreational purposes;
4. the relocation of some manufacturing industries for reduced land costs and taxes; and
5. the ability of farmers, through technological advances, to be able to work part-time at other businesses to supplement their income (Cherry, 1976).

It should be noted this population influx does not affect all rural areas. There are still "...areas of sustained outward migration with consequent social dislocation and economic collapse" in the more remote rural areas (Ibid, p.8). This is probably still the case in many of the remote areas of B.C., such as the Liard Regional District.

All of the different combinations of factors that could result in an urban population influx, combined with the possibility of a sustained out migration, have a tendency to ensure that few rural areas are alike. Therefore, the rural planner must be flexible enough to approach each area or situation with an open mind.

.3 The Changing Attitude of Rural Residents

The attitude of rural residents has also changed since Thomas Adams' time. The "... rural community has become less-sufficient in meeting its

own needs and relies increasingly upon contacts with specialist services from urban centers "(Ibid, p.56). There is an expectation of governmental services that exceed the basic building controls and sanitary services suggested by Adams, as we now hear constant requests for improved educational, transportation, health and community services and facilities. Part of the change is the result of increased educational levels, and improved communication and transportation links so that rural residents are aware of the services provided in urban centers.

One further reason for the change is the urban population migration. Specifically, "... the behaviour patterns of the newcomers are quite different from those whom they replace" (Hodge, 1986 p.177). They are more familiar with the methods for effectively dealing with government and now tend to direct the focus of interest in rural areas. This focus could be directed in any number of ways. For example, it may result in improved government services, to meet their expectations from previous living in an urban center- or it could result in an increase of rural residential subdivisions.

Regardless, the rural community is now constantly facing pressures for "motorways, power stations, oil tank farms, reservoirs ... new houses for commuters seeking the country life, and the ... tidal wave of cars bringing those in search of countryside recreation" (Ibid, p.174).

2. 3 The Tangible & Intangible Benefits Associated with Rural Planning

Michael Chisholm (1962) in his publication 'Rural Settlement and Land Use' supports the need for planned development through a study of locational factors or problems. As illustrated by Adams, speculation leads to a fragmentation or dispersal of farm settlements because of the leap-frogging effect necessary to bypass large tracts of land remaining idle. Chisholm takes an empirical approach to complete calculations that "...indicate a reduction in the average distance between the farmsteads and fields of a half kilometer will yield an average increase in gross product of 6 and 7 per cent, showing that even a fairly modest rearrangement of the locations of the farmsteads can contribute appreciably to the gains obtained from consolidation" (p. 135). Therefore, rural planning can ensure that land is used in the most efficient manner possible.

In further support of rural planning, Chisholm also confirms that controlling development dispersal reduces the costs of providing roads and public utilities such as electricity and water, while the possibilities of social intercourse are enhanced.

William Lean (1969), in his publication 'Economics of Land Use Planning: Urban & Regional' promotes regional land use planning as a means of achieving broader, national objectives associated with economic development. He argues that "with regional economic planning it ought to be possible to improve the framework of public investment within which economic activity takes place in such a way as to increase efficiency in the use of resources" (p.184).

To accomplish economic planning, regional land use planning is seen as a positive necessity. Lean states that "if the spatial relationships between different types of activity are so arranged as to facilitate complementarity, the ease of transport of persons, products and materials, and the provision of services, then this must increase the efficiency with which the resources of the region are used" (p.187).

The rural or Regional District planner is the best placed professional to oversee this land use planning in B.C.. He sees the region as a whole, and the existing planning approaches in B.C. entail a rational comprehensive view that incorporates input from all levels of government and the public. Therefore, with the proper resources he would be able to compile the data and analysis necessary for the regional authority to make decisions that could increase the efficiency of resource utilization. However, practically speaking, the regional authority does not have the power to overrule the mandate of other levels of government.

To get the opinions of practicing professionals on the need for rural planning, a questionnaire for regional planners was devised. The questionnaire (Attachment 1) was distributed to the planners in 23 of the 28 regional districts in British Columbia. Of the five regional districts not sent a survey, one was the Greater Vancouver Regional District, which declined to participate due to the lack of rural land within its jurisdiction. After numerous unsuccessful attempts, the other four regional districts were excluded as their cooperation could not be confirmed.

When mailing the questionnaire April 1, 1990 was specified as a response deadline. Unfortunately only sixteen, or 70%, of the regional districts that were sent the questionnaire responded (as per Table 2, p.35).

However, these responses are significant as the sixteen regional districts comprise a land mass of approximately 520,000 square kilometers (more than half the entire province) and contain approximately 225,000 rural residents.

The questionnaire returned for analysis provided some interesting results, most of which are discussed in Chapter 5. However, one basic question asked was - "Is there a need for rural planning?". Not surprisingly, all the respondents expressed a need for rural planning. This was to be expected as the individuals responding to the questionnaire are the 'believers' who are employed by the regional district (i.e. regional district officials, either employed in planning field or administers with the responsibility of overseeing the planning function) . To state that planning is not needed would be to question their own existence - as the representative from the Nanaimo Regional District states, planning is needed, 'otherwise he wouldn't have a job'. The response from the Nanaimo Regional District is surprising considering that this region contains the Coombs/Hilliers/Errington area, which is one of the more vocal areas against land use controls in the province.

However, I believe that most of the respondents made an honest attempt to complete the questionnaire to the best of their ability. A number of responses mirrored the rationale for rural planning provided in Chapter 2

of this study. Specifically, individuals stated that land use controls within rural areas are needed, for the following reasons:

TABLE 1

EXAMPLES	Number of Responses (16 questionnaires)
1. To protect the traditional lifestyle from conflicting land uses;	10
2. To deal with growth and development pressures resulting from small lot subdivision and the provision of community water & sewer	7
3. When the activities on one property negatively impact on adjoining properties;	6
4. Where there is a public demand for controls	3
5. When there are special environmental conditions	3

Corresponding to the above responses, rural land use controls were seen as the appropriate solution for problems related to increased density (such as health problems associated with wells and septic fields, noise, unsightly premises, building separation for fire safety), incompatible land uses, protection of the environment and the cost effective implementation of public or utility services.

Further support for rural planning is provided by William Lassey (1977) in his publication titled 'Planning in Rural Environments'. Lassey also

promotes the concept of planning in the rural area as part of an integrated 'whole'. He believes that there is a " ...tendency to divide the rural environment into sectors- such as agriculture, forest, water, parks, etc. - with very little provision for an adequate overview of how the total rural ecological system functions" (p.9). Lassey promotes the need for an improved knowledge base for rural planning in order to overcome this tendency.

2.4 The Rationale for Planning

The previous discussion on the changing emphasis of rural planning is a composite of trends experienced in North America and Europe. It is reflective of recent developments, but there is very little empirical or statistical verification of the extent of the trend in Canada.

In fact, a significant problem facing planners in rural Canada is that much of the data necessary to ascertain the extent of trends, and therefore to anticipate problems, is unavailable. In other words, not much has changed in data collection since it was stated by the Canadian Council on Rural Development in 1969 that "Information on rural conditions as such is particularly sparse" (Third Report and Review, p. 5).

While this report by the Canada Council is outdated, it does give an indication of what life in the country was expected to be like in the 1970's. Drawing on the results of a seminar held in Geneva Park, Ontario, the participants invited by the Council were grass-root individuals who had day to day involvement with agriculture or fishing in remote areas of

the country. Their feelings were summarized in a document that was approved by all those who attended. "In very simple terms, the participants felt themselves threatened. A combination of economic circumstances and apparent government disinterest had combined to place in jeopardy, not only their economic destiny, but the institutions of which they were a part and, indeed, their very way of life" (Ibid p. 1).

Utilizing the results of the Geneva Park seminar, and information from the Dominion Bureau of Statistics, the Canada Council report (1969) summarizes that rural areas were characterized by:

1. A continuing flow of working age residents to urban centers;
2. A higher demand for medical services by the remaining residents (i.e. the remaining very young and old people normally have need for greater medical attention than working age individuals);
3. Higher unemployment than urban areas;
4. Less total earnings for individuals employed in rural areas;
5. A higher degree of poverty than in urban centers;
6. Generally, poorer living conditions (i.e. older houses, crowded living conditions, and fewer of the comforts and amenities offered by modern living); and
7. A lower level of educational achievement (Ibid p.31)

Living conditions in the rural United States during this same period, as described by Clay Cochran (1973) in his article titled 'The Single Family Slum', appeared to be even worse than in Canada. Cochran states that contrary to popular belief, the inner city should not be the focus of

concern for the provision of adequate housing as "nearly 60 percent of the bad housing in the United States is found in nonmetropolitan areas, even though less than a third of the people live there" (p. 10). Furthermore, "... on a per capita basis, federal outlays for welfare and health services were roughly four times greater in metropolitan counties than in nonmetropolitan counties, while federal outlays for manpower training and development were three times greater in cities than in rural areas...' and '... while nonmetropolitan counties accounted for two-thirds of all substandard units in 1968, they received only 16 percent of all housing assistance" (Ibid).

Given these conditions, and the feelings of the participants in the Geneva Park seminar, there is an obvious rationale for rural planning to try and improve the overall standard of living for rural residents.

One of the shortcomings of the Canada Council report is that it does not discuss the phenomenon of urban residents relocating in rural areas as described in the previous section. There are indications that the trend reversal may have already started by 1969, but this cannot be confirmed. The Report reveals that non-farm populations were on the increase, but treats the increase as an anomaly and does not offer a concrete explanation for its occurrence (p.8).

William Lassey (1977), in his publication titled 'Planning in Rural Environments' expands on the need for rural planning to include issues beyond those in the Canada Council report and discusses factors not directly associated with the rural residents. Lassey maintains that "a

rationale for improved rural planning does not arise simply as a mechanism to increase the welfare of current rural residents." (p.22)

Of concern to Lassey is the non-farm population increase within rural areas. It is his belief that the urban migration to the country is likely to increase and that "... unless its consequences are understood in great depth and detail and adequate planning and action are undertaken to add some vigorous measure of control, urban impact can only lead to a transfer of many highly visible problems of the metropolitan conglomerates to rural locales, which already suffer from service inadequacy and despoliation of environmental amenities" (Ibid).

Lassey argues that any rural planning approach needs to be comprehensive and inter-disciplinary. He believes that the 'planner' must be a professional with sound analytical skills, and be capable of considering the implications of development with respect to:

- soil erosion
- water pollution
- flora and fauna protection from urban residents overrunning the countryside as a result of increased affluence, improved transportation and more recreation time
- preservation of agricultural land
- an improved standard of living for rural residents

A 1974 Ford Foundation report titled "The Art of Managing the Environment" graphically describes the problems associated with

development when these types of factors are not considered. It specifies that there is the potential for the onslaught of urban sprawl and unchecked rural development to follow a 'familiar' pattern. A pattern where "bulldozers lunge up hillsides, across farm lands, and through woods, kicking up clouds of housing developments, shopping centers, new roads, factories and office buildings' which cause ' a heavy drain on existing water and power supplies; soil erosion and runoff contaminating rivers and streams; overloaded sewers; proliferation of septic tanks, often poorly designed and constructed; replacement of natural protective ground cover by paved surfaces and buildings, increasing the risk of floods; accumulation of solid wastes and conversion of land into dumps with attendant health hazards and aesthetic pollution; traffic congestion and consequent air pollution; and a rapid increase in population, putting demands on the public services of nearby older cities and towns beyond their capacity to deliver." (p.3) There is no doubt that this type of degradation of the environment has occurred in many rural areas of B.C.

In the New Democrat's paper (1989) on "Sustainable Development: B.C.'s Growing Future", there are charges that rural exploitation has led to "... the destruction of fish and animal habitats, erosion, the alteration of drainage patterns, and the creation of an ugly, scarred landscape..." (p.5). The paper also points out that " the amount of farmland protected under the Agricultural Land Reserve has progressively diminished- between 1974 and 1986, the reserve shrank by 27, 489 hectares. This problem is real, and is not specific to B.C.

✓ In fact, Paul Eagles (1984) in his publication titled "The Planning and

Management of Environmentally Sensitive Areas" states that "In the most densely populated portions of Europe, Asia and North America less than 10% of the natural, terrestrial ecosystems remain in some semblance of their natural state" (p.1). Given this state of affairs, concern must be expressed over unplanned rural development, for it has the potential to threaten the ecosystem that all human life depends on.

Basically, Eagles expands on Lassey's concerns for flora and fauna protection, to the point where he presents the relatively new discipline of 'environmental' planning. However, in my opinion this not necessarily a new form of planning. What it really consists of is a comprehensive planning approach with greater emphasis placed on understanding and valuing environmental impacts- so that ecological concerns are integrated into societal decision-making (Ibid p.43).

Eagles presents the following table that highlights the positive ecological functions that can result from planned development which considers the retention of environmental sensitive areas:

"

1. Protection of gene pools for the future;
2. Protection of rare or endangered species and their habitat;
3. Provision of travel corridors and resting places for migratory species;
4. Preservation of mature, stable climax ecosystems with their constituent complete food webs and trophic level complexity;
5. Serving the purpose of benchmarks to which all disturbed areas can be compared;
6. Conservation of large large blocks of habitat for species, especially

upper trophic level predators, that require extensive areas for breeding and survival;

7. Protection of areas for the nesting or breeding of colonial species, such as herons, terns or many fish species;
8. Protection of representative samples of different ecotones or community types within an existing biogeographical province;
9. Allowance for ecological succession to continued unhindered;
10. Protection of areas for the breeding of wildlife that require undisturbed natural areas;
11. Conservation of areas with relatively complete nutrient recycling processes and normal energy flows;
12. For the study of the population dynamics of any or all constituent species;
13. For the study of predator/prey and parasite/host relationships in areas with natural food-chain processes;
14. Protection of paleobotanical resources for the study of past environments and their change over time;
15. To serve groundwater recharge, low stream flow augmentation, flood peak reduction and headwater protection functions for the hydrological system;
16. Filtration and cleaning of air and water flows. (Almost all sewage treatment is dependent upon the natural ecosystem to complete the treatment process.)
17. Reduction of soil erosion;
18. Protection of unique geological features that show significant glacial, fluvial, depositional or erosional processes;
19. Limitation of construction on hazardous lands such as floodplains,

- steep slopes or unstable soils;
20. Provision of areas for public education in resources and their management;
 21. Protection of aesthetically pleasing environments;
 22. To provide sources of commercial products such as outdoor recreation. (Ibid p.4)"

The key in considering all of these factors is cooperation. No one individual can have an intimate knowledge of all disciplines. Therefore, one must rely on others for input into the planning process. This reliance must also extend to the public at large- for without understanding and acceptance from the people that are affected by planning decisions, there can be no assurances that the desired outcome will be achieved. Therefore, in any discussion on rural planning, there should be some consideration of the public's perception of its worth.

2.5 A Rationale for the Public's Impression of Planning

The Canada Council report discussed in the previous section had input from the public through the Geneva Park seminar. It was the perception of the rural residents that took part in the seminar that "there was a wide-spread tacit assumption that planning represented the major tool which would under-pin economic development in rural areas of Canada" (Third Report & Review p.38).

However, the question has to be asked whether the people attending the seminar were representative of the rural population. I tend to think that

seminar were representative of the rural population. I tend to think that they would only be indicative of the more highly educated, wealthier rural residents, considering that substantial travel may have been necessary to attend the seminar.

In addition, since only a 'tacit' assumption was evident from what could have been a minority representation of rural residents, it is appropriate to refer to another opinion on how planning is perceived.

Alan Hahn (1970), in his paper titled 'Planning in Rural Areas', provides what I believe to be one of the better descriptions of how planning is perceived in the rural community. It is his belief that planning, as a whole, has largely been unsuccessful in rural areas. Primarily because of "... the recalcitrance of rural citizens, leaders and government. Their acceptance of planning as an appropriate local public activity is absent, or half-hearted at best" (p.44)

Hahn maintains that for rural planning to be successful, the planner must recognize and take into consideration the fact that differing internal pressures within each rural area normally provides for a continuum that ranges from completely rural to almost urban.

He breaks the continuum down into a minimum of three distinct categories that span this spectrum. The categories described are:

1. Completely Rural
2. Urbanizing Rural

Each of the categories is typified by how its residents will react to planning initiatives. The completely rural community is typified by the residents perception that there is no need for 'planning'. Hahn believes that, in many cases, this perception is close to the truth as "informal social pressures in the small community serve to check land changes'... and...' the tendencies toward conformity are probably more effective than country zoning regulations in preventing nonconforming uses" (p.45). In other words, "... the homogeneity of residents, occupations, and outlooks simultaneously leads to a reluctance to use formal means of regulation and control and less objective need to use them" (Ibid). Serious nuisances would normally be dealt with by the residents themselves on an informal, personal level which would not involve either the courts or government representatives.

A region is typified as an urbanizing rural area when this informal method of problem resolution becomes less effective. The characteristics of the urbanizing rural area that separate it from the completely rural area are:

1. " people and land uses are more densely distributed, and hence, more likely to conflict;
2. change is more rapid and obvious; and
3. newcomers, who do not conform in values and needs with the original residents, grow more numerous " (Ibid).

In this type of an area, the residents feel the need for greater governmental intervention and formalized procedures because the

governmental intervention and formalized procedures because the communication links between neighbours start to break down as a result of a widening or diversification of interests. Hahn states that "...land use controls (especially special purpose ordinances as opposed to zoning) may be adopted for the first time, but they are still unlikely to be formally enforced" (Ibid). Formal enforcement is probably not needed as the very existence of these regulations, combined with informal social pressure would be enough to bring people into compliance with the wishes of the community.

An urbanized rural community is achieved when urban oriented newcomers become the vocal majority. A natural evolution occurs where "... urban oriented newcomers will disagree more and more with farm oriented groups, who would still be dominant in local decision making" (Ibid). Once this occurs the natural progression is for:

1. Urban oriented individuals begin to organize into interest groups;
2. Once organized, the interest groups begin to make representations at community functions to promote their concerns;
3. These representations evolve into presentations to local elected officials, and a political platform that challenges incumbents; and
4. Eventually, it leads to urban oriented individuals being elected to office and a redirection of rural priorities to urban priorities.

When an urbanized rural community is achieved, there is far more acceptance of planning's traditional doctrines, but there could still be considerable opposition to the more restrictive planning tools such as

zoning. This opposition is largely due to what Hahn believes are the perceived and real limitations of planning, and to the special interests of individuals in the community.

Hahn (1970) notes that traditional planning has a tendency to be applied throughout entire areas or regions, rather than to concentrate on specific problem sections. This is seen as being rather indiscriminate by rural residents, and reinforces their opinion that more restrictive regulations, specifically zoning, is sure to follow. There is resistance to zoning on two fronts:

1. It must be remembered that a percentage of the urban 'newcomers' are escaping the city and its multitude of regulations. These individuals would be one group resisting the restrictions imposed by zoning; and
2. Resistance to 'agricultural only' zones by those individuals using their land for agricultural purposes.

It is Hahn's (1970) position that planners have fallen for what he terms the 'protection myth' on the assumption that farmers are threatened by urban development. To the contrary, Hahn states that " many farmers see urban development not as a threat, but as a promise- a possible windfall " (Ibid). He believes that "what most farmers in an urbanizing situation want may include preferential tax treatment, protection from eminent domain proceedings, protection from harassment by anti-odor ordinances and other restrictions, and so on- but NOT a zoning ordinance or any other provision that prevents or restricts the sale for urban land

purposes"(Ibid).

My professional experience, working in several different regional districts, supports both the steps to urbanization described by Hahn, and the existence of the 'protection myth'. For example, I would tend to describe much of the area outside of the Fort St. John urban fringe to be 'completely rural', while the area outside of Penticton (where I assisted in the preparation of a Rural Land Use Bylaw that is detailed later in this document) could be described as 'Urbanizing Rural' and leading towards 'Urbanized Rural'.

In addition, while in Fort St. John, it was my responsibility to prepare reports for the Regional Board on applications for subdivision or non-agricultural use. In discussion with the applicants, and other members of the public at various regional district meetings, the comment I heard most from farmers was that they supported the preservation of agricultural land in theory- but felt that when an individual was ready to retire after actively farming the land, he should be able to get the maximum return possible for the land. This could entail either subdivision or the non-farm use of the property.

An attempt to verify the public's perception of the need for rural planning was made through the questionnaire previously described. Basically, I questioned the regional district officials about the number and type of land use complaints received per year. While a direct correlation between complaints and the need for planning cannot be confirmed, the article by Hahn states that the complaints received by local authorities can be seen

as an indication of the extent of urbanization in rural areas. When urbanization takes place the social interaction or relationship between neighbours, breaks down. There is then a reluctance to deal with conflicts on a personal or informal basis. Therefore, increasing urbanization should increase the need for planning and development control and place greater emphasis on public officials to resolve conflicts.

The following table indicates the number of complaints received in each regional district that responded to the questionnaire, and provides an indication of the extent to which the regional district is used for conflict resolution.

TABLE 2

REGIONAL DISTRICT RURAL POPULATION LAND AREA COMPLAINTS

	(estimated)	(sq. km.)	(per year)
Alberni Clayoquot	12,000	6,883.3	12
Bulkley Nechako	18,500	77,821.2	10
Central Coast	3,167	25,180.8	25
Central Kootenay	26,109	23,157	N/A
Central Okanagan	25,500	2,956.3	81
Columbia Shuswap	17,000	30,107.2	12
Comox Strathcona	33,210	20,291.8	55
Dewney-Alouette	3,500	2,860.8	30
Fort Nelson-Liard	1,500	85,808.1	6
Fraser-Fort George	14,421	51,998.6	20
Kitimat-Stikine	9,271	102,620.1	30
Mount Waddington	5,000	20,248.6	90
Nanaimo	5,943	5,264.2	36
Skeena-Queen Charlotte	4,534	16,232.8	N/A
Thompson-Nicola	<u>22,000</u>	<u>45,279.2</u>	<u>80</u>
TOTAL	226,655	518,790	637

There is considerable difference in the number of complaints registered per capita in each regional district. For example, the Mount Waddington Regional District has three times the number of complaints per capita than the Regional District of Bulkley Nechako. However, little relevance

can be attached to these differences without a detailed analysis of the specific circumstances in each regional district.

The most startling aspect of Table 2 is that the actual number of complaints received is extremely low. For over half of the rural area in the province, less than one half of one per cent of the population actually had complaints pertaining to land use in 1989. However, many of the individuals that did complain had valid land use concerns that are indicative of the problems in a community facing pressures from a rural/urban interface or an influx of urban residents. The most common complaint appeared to be unsightly premises, followed by inappropriate commercial or industrial land use and problems with the keeping of animals.

To provide an indication of what can be expected in a 'typical' rural area, the Regional District of Central Kootenay provided a copy of their April 1989 resident survey of Electoral Area 'F' (Appendix 2). The purpose of the survey was to determine whether the residents supported planning and development controls within their electoral area. It concluded that simplified land use controls were desired by residents to provide security against the development of undesirable activities on adjacent properties. In total, 71 percent of the respondents surveyed expressed support for local public control of development. Yet, the residents made it clear that they did not want the restrictive controls offered by zoning.

As a typical rural area, Electoral Area 'F' appears to be characteristic of an urbanizing rural area. The residents preferred the peace and quiet

provided by the rural atmosphere in the region, while enjoying the accessibility to services and the employment offered by the City of Nelson. Of the residents surveyed, 59 percent lived on property of less than an acre; 29 percent lived on property that was between one and five acres; and 12 percent lived on property greater than 5 acres. Given the parcel size typified in the Regional District's study area, one would have to conclude that the development thrust in the region was away from the traditional rural activities (such as farming) that require larger parcel sizes. Another indication that the region may be undergoing an urbanizing process is the fact that 32 percent of the residents surveyed had lived in the area for less than five years.

The fact that this electoral area, and other rural areas throughout the province, may be in an urbanizing state may explain the abnormally low number of land use complaints in Table 2. If one accepts Hahn's (1970) portrayal of the rural area as being a continuum that ranges from completely rural to almost urban, the lack of complaints could be indicative of both completely rural and urbanizing rural. Yet, the need for planning is evident in an urbanizing rural area, as Hahn characterizes it by:

1. "People and land uses are more densely distributed, and hence, more likely to conflict;
2. Change is more rapid and obvious; and
3. Newcomers, who do not conform in values and needs with the original residents, grow more numerous." (Hahn 1970, p.45)

In an urbanizing rural area, the residents feel the need for greater

government intervention and formalized procedures because the communication links between neighbours start to break down as a result of a widening or diversification of interests. Yet, formal enforcement is rarely needed as the very existence of these regulations, combined with informal social pressures, could be enough to bring people into compliance with the wishes of the community. Therefore, there is a basic need for simplified land use controls in most urbanizing rural regions.

Of interest is the fact that, of the regional district representatives that responded to the questionnaire for this study, the majority expressed the opinion that there is a threshold parcel size when sophisticated land use controls become necessary. Most of the parcel sizes specified for this threshold were relatively small, ranging from 4,000 square metres (or the size at which sewer services are required) up to 20 acres. Yet, the majority of the regional districts have a comprehensive zoning bylaw that applies to extremely large parcels of land within significant portions of their region. This suggests that inappropriate land use controls have been applied in some areas, and indicates that the development of the rural land use bylaw legislation may have been justified. Of course, there are urbanizing rural areas where zoning was appropriately implemented in a proactive manner to control development pressures.

Given the public's and the professional's impressions of planning that have been presented throughout this section, I believe it is necessary to explore alternative methods of rural land use planning. Only through research of this nature can planners be successful in achieving the

tangible and intangible benefits that planning can offer, while still meeting the needs of the public at large. Professionals should be aware of alternative planning methodology in order to be flexible enough to be able to respond to varying conditions found in the rural continuum.

CHAPTER 3

RURAL PLANNING IN ALBERTA, ONTARIO AND SASKATCHEWAN

3.0 Introduction

The intent of this chapter is to illustrate how the administrative structures in Alberta, Ontario and Saskatchewan have been developed to deal with the need for rural land use planning as established in the previous chapter.

In addition, there is a discussion of the major planning tools utilized in each province, the methods for amending these tools and the role of the public. The information presented forms the basis for the comparative analysis in chapter 5.

3.1 Rural Land Use Controls in Alberta

Background

The province of Alberta has a long history of land use control legislation. Unlike British Columbia, which incorporates planning into the Municipal Act, the Alberta government has mandated its planning function through a specialized Act for the past 77 years.

Alberta's first Planning Act was implemented in 1913 for the purpose of regulating development on the periphery of established cities such as

Calgary and Edmonton. In its first Act, Alberta pioneered some of the established 'norms' in today's planning field. For example, there " ... was a provision for a dedication of up to five per cent of land for open space and public lands with no compensation in a newly planned area" and " ... it offered the aesthetic order of unified design rather than the mechanistic order imposed by zoning and grid subdivision" (Masson 1985, p. 259).

This Act was amended, or repealed to be replaced by a subsequent Planning Act several times over the years. Each amendment or new Act had an expressed purpose, but some pieces of legislation were more significant than others. The 1929 Act established a Director of Town Planning to formulate provincial planning guidelines, and transferred zoning powers previously controlled by the Minister of Municipal Affairs to local authorities such as cities, towns, villages, municipal districts and improvement districts. It also gave these local bodies the ability to establish regional planning commissions (Ibid p.262).

In response to these changes, over fifty municipalities enacted planning bylaws during the 1930's. However, the depression reduced available funds and no regional planning commissions were established. It wasn't until after the establishment of the 1952 Town and Rural Planning Act that impetus was given for the creation of District Planning Commissions to act as planning advisory bodies.

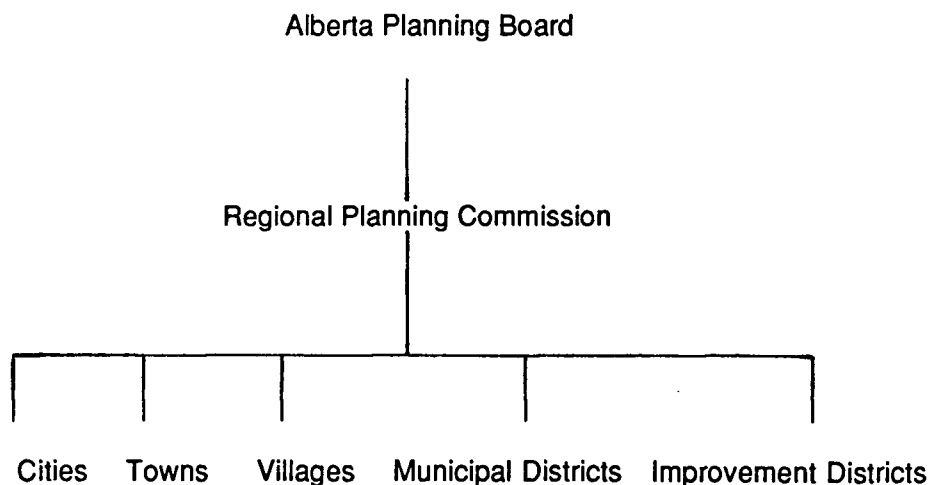
With an amendment to the Planning Act in 1957, the Minister of Municipal Affairs divested virtually all routine planning responsibilities (but not final signing authority) to local authorities by delegating the authority for

final subdivision approval. Subsequent to this Act, there were a number of minor amendments that lead us to today's planning process. One amendment changed the name of the District Planning Commissions to Regional Planning Commissions, and another made the implementation of a regional plan mandatory for each Regional Planning Commission by 1972.

The Planning Process in Alberta Today

To fully understand the rural planning process in Alberta, it was necessary to contact the Alberta Ministry of Municipal Affairs. Therefore, the following information has been compiled with the assistance of Mr. Eugene Dmytruk, General Manager of the Alberta Planning Board.

The hierarchy of government bodies involved in the planning process, utilizing a top down approach, is detailed in the following diagram.



- The Alberta Planning Board

The Alberta Planning Board represents the provincial government and is composed of 18 members- 6 political appointees and 12 senior civil servants representing departments with a direct interest in land use planning. The Planning Board's main function is the ratification of Official Regional Plans and any subsequent amendments proposed by Regional Planning Commissions. Therefore, the Board acts as the provincial representative to ensure that regional plans are consistent with provincial policy or objectives.

The Planning Board holds substantial authority. It can conduct hearings in the same manner as a court of law for it has the authority under Section 18 and 19 of the Planning Act to:

1. summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;
2. require a person to attend and produce any plans or documents the Board considers necessary for matters under its jurisdiction; and
3. have a bench warrant issued by the Court of Queen's Bench if a person fails to attend a meeting of the Planning Board as notified.

The Planning Board has the authority to reject plans outright if they do not believe they are in the best interest of the province. Once rejected, a plan is returned to the appropriate Regional Planning Commission for revision. "In addition, the Board is the appeal body for subdivision appeals; its decisions are subject only to an appeal to the Appellate Division of the Alberta Supreme Court and then only on questions of law, not the planning substance of the decision" (Masson 1985, p.266).

- Regional Planning Commissions

The Regional Planning Commissions that forward plans to the Planning Board are normally comprised entirely of elected officials representing the local bodies within their planning areas. The only exception to this rule is the Ministerial appointment to the Commission, under Section 22 of the Planning Act, of members from improvement districts.

Improvement districts are rural areas, so sparsely populated and with such small tax base that the incorporation of a self-governing municipal district is not feasible. However, the Minister has seldom used this authority in recent years as it is counter to the Alberta governments desire to have self-government within all areas of the province.

There are 10 Regional Planning Commissions that regulate the majority of the province's land mass and population. Depending on the size of the planning area, these Commissions have between 15 and 45 representatives. Their main functions are to:

1. prepare the statutorily required Official Regional Plans for their planning areas;
2. ensure that land-use bylaws, and various development proposals initiated by the local governing bodies conform to the Official Regional Plan; and
3. act as an advisory body on planning issues for local authorities.

As stated in Section 47 of the Planning Act," a Regional Plan:

- a) shall provide for present and future land use and development of the

planning region; and

b) may regulate and control the use and development of land in the planning region."

These Commissions can employ professional planners as staff that act in an advisory capacity, or utilize the planning resources of the Planning Service Division of the Department of Municipal Affairs.

Of importance to this study is the fact that there is a definite rural bias to Regional Planning Commissions that is normally reflected in the Regional Plans. This bias appears to extend from the 1929 Town Planning Act when, "... as might be expected in a rural-dominated legislature, small municipalities were favoured over very large ones: no government unit was allowed more than three members on a commission" (Ibid, p.261).

In 1980, only the City of Edmonton, with a population of 551,314, exceeded this three member maximum in the Edmonton Metropolitan Planning Commission. However, its nine votes could still be dominated by the rural communities. There were a total of 27 votes on this Commission, and the smaller communities of Calmar, Bon Accord, Gibbons, Beaumont, Devon, Morinville, Redwater, Stony Plains and Spruce Grove (with a total population of 34,942) had the same total number of votes as the City of Edmonton. The remaining votes were held by medium sized communities and rural municipalities.

This rural bias was even greater in the Calgary Regional Planning Commission. The City of Calgary, with a population of 623,133, had only 3

out of the available 17 votes on the Commission. As a result, the communities of Crossfield, Trochu and Beiseker, with a combined total population of 2,734, had voting powers equal to the City of Calgary.

While this discrepancy between voting power and population could be an obvious source of conflict between urban and rural communities, it could promote among rural residents in Alberta a different perception of planning than their counterparts in B.C. When the votes of the elected officials of smaller communities or rural municipalities are needed to pass planning resolutions, it is difficult to argue an urban bias.

- Rural Municipalities

There are a number of local governing bodies, such as cities, towns, villages and rural municipalities, in Alberta. The governing body of importance to this study is the 'rural municipality'. This body does not reflect the typical B.C. municipality. It has evolved in Alberta to represent the rural areas that are typically unincorporated in B.C.

In B.C., the equivalent of a 'rural municipality' would be an area in which the provincial government might consider the adoption of a Rural Land Use Bylaw was appropriate. Mr. Dmytruk states that a rural municipality incorporates vast tracts of what he would normally consider to be rural land, as it is primarily used for agricultural or resource-oriented purposes. The average parcel size could vary significantly within each rural municipality, as parcel sizes commonly range from one to one thousand hectares.

However, unlike the unincorporated areas of B.C., the Alberta rural municipality is a self-governing body. Within each rural municipality there are normally seven to nine electoral districts. Elections are held to determine representation for each electoral district. These elected officials then act in basically the same manner as a municipal council in governing the rural municipality. As noted earlier, one of these elected officials is appointed to a Regional Planning Commission. This individual has one vote on the commission, which is similar to the voting power of most cities. In this way, the Alberta government ensures that rural interests are incorporated into planning decisions.

Because of Alberta's pioneering of the planning movement in Canada, the profession is well developed and the rural residents appear to be willing to accommodate to land use controls. As a result Alberta has somewhat more stringent land use controls than similar rural areas in B.C..

For example, many of the rural municipalities in Alberta are statutorily required to have a land use bylaw covering their land area as Section 68(1) of the Planning Act states that "a council of a municipality with a population of 1000 or more shall pass a by-law in accordance with Part 6..." of the Planning Act. Part 6 delineates public participation in the planning process, and will be discussed after the features of a Land Use Bylaw are detailed.

As noted by Mr. Dmytruk, a land use bylaw is similar to a standard zoning bylaw. Section 69 of the Planning Act specifies that a land use bylaw:

1. may prohibit or regulate and control the use and development of land and buildings;
2. shall divide the municipality into districts for the purpose of;
 - a) describing the permitted uses of land or buildings; or
 - b) describing the discretionary uses of land or buildings, or both
3. may provide for;
 - the minimum and maximum area of lots;
 - the ground area, floor area, height, size and location of buildings;
 - the amount of land to be provided around and between buildings;
 - the landscaping of land or buildings;
 - the location, height and maintenance of fences and walls;
 - the establishment and maintenance of parking and loading facilities;
 - the design, character and appearance of buildings;
 - the location of access to the lot;
 - the lighting of land, buildings or other things;
 - the enlargement, alteration, repair, removal or relocation of buildings;
 - the excavation or filling in of land;
 - the development of buildings on unstable or hazardous lands, on lands within a specified distance of a watercourse and on lands within a specified area around an airport;
 - the construction, repair and placement of billboards or other advertising signs; and
 - the density of population within any part of the district.

As noted previously, the implementation of a Land Use Bylaw is subject to Part 6 of the Planning Act. This part specifies regulations pertaining to public participation in the planning process. Before giving second reading

public participation in the planning process. Before giving second reading to a proposed bylaw, council must hold a public hearing to provide members of the public with an opportunity to voice their opinions. To ensure that the public is aware of the public hearing, council must:

- a) give written notice to all people who's land is directly affected by the bylaw that states the time and place of the hearing, and outlines the procedure for making representation;
- b) publish in two issues of a local newspaper a statement of intent for the bylaw, the date and time of the hearing, and where a copy of the bylaw can be inspected.

To summarize, rural land in Alberta is subject to:

- 1) an Official Regional Plan, established by a Regional Planning Commission. The purpose of this plan is to establish goals such as preservation of agricultural land, or industrial land designation. The established goals are reinforced through broad management guidelines which direct the type of development proposals that can be entertained by rural municipalities ; and
- 2) a land use bylaw. This bylaw can be very specific; it can limit land use, floor area, building height, appearance, form and character of development, and even such things as the height of fences or the placement of signs.

The procedure for adopting a land use bylaw requires public participation. In other words, as in B.C., when adopting the bylaw there is normally a

public information meeting followed by a public hearing to give citizens the opportunity to make their views known.

3.2 Rural Land Use Controls in Ontario

Planning in Ontario, like Alberta, is governed by a specific Planning Act. However, the method of planning in rural areas is significantly different than the 'Rural Municipality' concept that the province of Alberta has adopted. Rather than having rural municipalities responsible for unincorporated areas, the Minister for Municipal Affairs establishes a Planning Board in areas susceptible to development pressures or land use conflicts. The Planning Board consists of citizens who act as an advisory body in the development of planning policy.

The authority for the Minister to create a planning area comes from Part I, Section 2 (3) of the Planning Act which states that " The Minister may define and name a planning area consisting of territory without municipal organization and may appoint a Planning Board for a planning area." The Planning Board is normally composed of either four, six or eight appointees.

The unique aspect of this Board is that the Minister actually advertises in local newspapers for individuals willing to accept the responsibility for planning decision making. Ministry bureaucrats interview each applicant who responds to the advertisement, and then makes a recommendation to the Minister for his selection.

Although the Planning Board functions similarly to a council, its primary responsibility is the development of an Official Plan. An 'Official Plan' is defined by the Planning Act as meaning "... a program and policy, or any part thereof covering a planning area or any part thereof, designed to secure the health, safety, convenience or welfare of the inhabitants of the area...".

Therefore, an Official Plan is a policy document that delineates how land should be used or developed. The Ontario government states that " It provides direction for future planning activities, and for public and private initiatives aimed at improving the existing physical environment. It is tailored to the size and complexity of each ' planning area' and is based largely on input made by citizens through the public participation process" (Citizens Guide to Official Plans). While this may be the case, it is noted that public participation is normally limited to only one public meeting before the plan is sent to the Minister for ratification.

The Planning Board draws on the resources of the community planning branch of the Ministry of Municipal Affairs for technical input into the Plan. Once the Plan is completed, it must be ratified by the Minister of Municipal Affairs. Unlike Alberta, the Planning Board is not responsible for the development of a zoning or land use bylaw.

In areas not governed by municipal bodies, land use controls are normally applied as a Minister's zoning order under section 35 of the Planning Act. Section 35 basically gives the Minister the authority granted to municipalities under Section 29 (subdivision) and Section 39 (land use

controls). Section 39 is the significant section for the purpose of this study. Under Section 39 the Minister may implement a zoning order (in compliance with an Official Plan if in place) that:

1. Prohibits the use of land within defined areas, or areas abutting a highway;
2. Prohibits the erection or use of buildings or structures within defined areas, or areas abutting a highway;
3. Prohibits the erection or use of buildings or structures on land subject to flooding or on land where, by reason of its rocky, low lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive;
4. Regulates the cost or type of construction and height, bulk, location, size, floor area, spacing, external design, character, and use of buildings and structures within defined areas. This includes regulating minimum frontage and depth of a parcel of land for the purpose of siting buildings or structures;
5. Requires owners or occupants of buildings or structures to provide adequate parking and loading zones; and
6. Regulates the minimum area of land parcels and the density of development within a defined area.

Where a Planning Board has been implemented, the Minister will seek its cooperation in the preparation of the zoning order. The Planning Board also plays a large part in the amendment and enforcement of the zoning order. The Board reviews and makes recommendations to the Minister on amendment applications, and documents zoning order contraventions so

that ministry staff can take appropriate action. This action may involve either a criminal court case, that entails a maximum \$1000.00 fine, or the ministry obtaining a civil court injunction to stop the offending action or use.

The Minister is all powerful in the implementation of a zoning order within rural areas. When a zoning order is imposed, the usual zoning requirements for notice, public information and a public meeting do not apply. Therefore, the minister can, if he so desires, implement a zoning order without providing an opportunity for the public to have input through the public hearing process. All that the Minister is required to do is, within 30 days of mailing an order, give public notice and make a copy of the order available at the local land registry office.

The Minister does have the option of referring the zoning order to the Ontario Municipal Board (O.M.B.), prior to implementation, if he perceives a need to do so. In other words, if there is a public outcry to the imposition of zoning regulations, it may be politically wiser to refer the decision on implementation to a separate body. The Ontario Municipal Board is an appointed, administrative tribunal that operates like a court of law to hear appeals and decide on contentious land use planning issues.

To decide on contentious issues, it is the O.M.B.'s standard practice to (with proper notification- either advertised or mailed) hold a public hearing similar to a court of law. At the public hearing, one or more O.M.B. appointees will hear both concerned citizens and expert witnesses in the land use planning profession. The individuals appearing before the board

are placed under oath. This process may take several hours, or several days, depending on the complexity of the issue. "The O.M.B.'s decision is final, except where a planning matter is designated by the Minister to be of provincial interest. In such rare cases, the Ontario Cabinet reviews the matter and may confirm, vary or object to the O.M.B.'s decision" (A Citizen's Guide to the Ontario Municipal Board).

Rob Anderson, a community planner for the Ministry of Municipal Affairs was interviewed to determine how the planning system actually functions. He stated that the normal sequence of events involves the Community Planning Branch specifying a concern over land use conflicts or development issues in an unincorporated area. Once concerns have been identified, the Minister issues a zoning order that is, in effect, a zoning bylaw. The purpose of the zoning order is to maintain the status quo, to ensure that development does not get out of hand. Once the order is in place, the Ministry initiates the formulation of a Planning Board.

Therefore, planning in rural areas appears to be a reactive process rather than a proactive one. Anderson states that, unless concerns have been identified in a particular area, the Ministry does not impose land use controls. One positive aspect of this method of implementing a Planning Board is that the local representatives on the Board are not susceptible to political pressures from residents in the area. Therefore, they are able to act in what they deem to be the best interests of the community, without the possibility of political repercussions.

One uncertainty that Mr. Anderson alluded to was the application of an

Official Plan to public lands. He stated that the Minister of Municipal Affairs' authority to implement plans for the public good on public lands is not clear under the Planning Act. What the Ministry relies on is a referral process, to other provincial Ministries, which may have resource or other interests within the plan area. The other ministries can comment on the plan, but their approval is not required nor are they bound by the plan.

In summary, land use controls are normally implemented initially through a zoning order from the Ministry. The actual zoning order itself is prepared by the provincial planning staff. It is after this step that the more altruistic planning guidelines, established for the public good, are created and implemented.

3.3 Rural Land Use Controls in Saskatchewan

Government Structure

Like Alberta and Ontario, the province of Saskatchewan also utilizes a Planning and Development Act to govern planning. This Act is quite technical and comprehensive. As a result, it is difficult to understand its emphasis, or even to determine the hierarchy of governing bodies involved in the planning process. To better understand the system of government in Saskatchewan, Mr. R. Howes of the Community Planning Division of the Saskatchewan Ministry of Rural Affairs was interviewed.

Mr. Howes confirmed that considerable attention is given to planning in

rural areas- to the point where his Ministry was created to deal specifically with rural issues. He stated that, like British Columbia's Regional Districts, the province of Saskatchewan utilizes the concept of individual 'Rural Municipalities' to govern locally in rural areas. On average, each rural municipality consists of 8 to 9 townships, and the unincorporated areas in between the townships. In the Government of Saskatchewan 1989 Annual Report on Rural Development, it is noted that there are 299 rural municipalities and 18 Planning Commissions.

Townships are incorporated villages or towns with elected councils. A representative from each council sits on the board or council of the rural municipality. The unincorporated areas also have elected representatives from defined electoral districts, with each representative having an equal vote.

However, the rural municipalities do not have the same self-governing authority as in Alberta. Mr. Howes stated that it is quite common for rural municipalities not to have a basic planning statement, development plan or zoning bylaw. He also said that there are commonly inconsistencies in planning standards between rural municipalities. For example, he stated that the minimum parcel size for agricultural activities could vary from 10 to 14 to 160 acres.

This is not seen as a problem because the Ministry of Rural Affairs has implemented basic planning guidelines. Examples of planning guidelines provided by Mr. Howes include preventing a racetrack from locating near a senior citizens complex, or an intensive livestock operation from locating

near a community water source.

These guidelines are adopted under Section 11 and implemented under Section 12 of the Planning and Development Act. Section 11 of the Act states that "the minister may initiate and make recommendations to the Lieutenant Governor in Council respecting the development of provincial land use policies". Once adopted by the Lieutenant Governor, as per Section 12, these land use policies must be considered in the preparation and review of development plans, basic planning statements and zoning bylaws throughout Saskatchewan.

At the same time, Mr. Howes states that as long as the basic guidelines are followed there is little involvement from his Ministry in the daily workings of the rural municipalities. Furthermore, he sees the rural municipality's ability to initiate a planning commission to assist and advise council on community planning and development matters as a positive planning tool to ensure that the wishes of the residents are met.

The planning commissions normally consist of between 3 and 9 members that are appointed by council. The Planning Act specifies that the majority of the commission members must be individuals who are not members of council. It is interesting to note that the Act also permits council to appoint "members and employees of any organization concerned with the planning and orderly development of the municipality".

This seems to provide the potential for abuse, as it could be possible for powerful interests to use the commission to achieve their ends. However,

the commission is only an advisory body to the Council. Section 18 of the Act specifies that the commission can only recommend to council the adoption of bylaws or policies resulting from their investigation into land use, transportation, utilities, services, municipal finances and other issues related to the physical, social or economic well being of the municipality.

If consistency is desired among rural municipalities, Section 120 of the Planning and Development Act provides for the councils to enter into an agreement for the formulation of a Planning District. A Planning District basically acts as a 'large scale' Planning Commission with its members being:

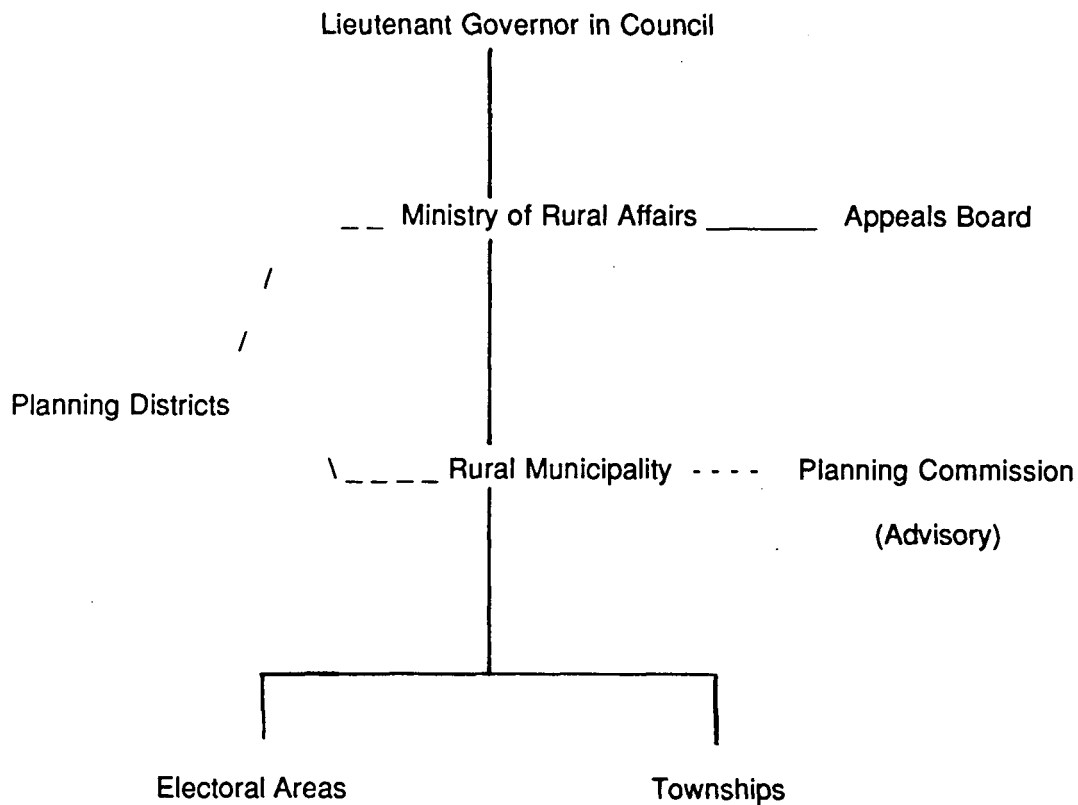
1. representatives from each council within the district;
2. individuals appointed by the Minister of Rural affairs; and
3. individuals agreed to and appointed jointly by the councils within the district.

The development of a planning district is usually dependent on reasons related to topographic features; existing and probable development; common agricultural, resource, conservation or recreation issues; and the existence of common planning concerns. It is important to note that the planning districts are established solely through the initiative of rural municipal councils, rather than by the Minister. As a result, there must be issues of sufficient significance to warrant the generation of an intense 'common interest'.

The Planning and Development Act also provides for a Provincial Planning

Appeals Board that consists of between nine and fifteen members which are appointed by the Lieutenant Governor in Council. None of these appointees can be employees of the Ministry of Rural Affairs. This Appeals Board is of minimal interest to this study, as its sole purpose is to pass judgement on matters of interpretation that are subject to appeal in the Planning Act. The intent of the Appeals Board is to ensure that there is no misuse of the discretionary powers of either a development officer who is administering a zoning bylaw, or Council.

In summary, the hierarchy of government bodies pertaining to rural land use planning in Saskatchewan is as follows:



Rural Land Use Controls

As previously noted, a rural municipality is not required to implement land use controls. Where controls are implemented, the planning process entails the development of three separate planning documents- a Basic Planning Statement, a Development Plan and a Zoning Bylaw.

- The Basic Planning Statement

A Basic Planning Statement can be applied to all or a part of the rural municipality. It is normally prepared at the discretion of Council, or (in some cases) at the direction of the Minister of Rural Affairs. Once a decision is made to implement a planning statement through a resolution of Council, the statute requires that it be completed within a year. Upon completion, it is forwarded to the Minister of Rural Affairs for approval. The Minister can exercise his authority to return it to the council for revision if he so desires. This would normally be done on the advice of the planning professionals employed by the Community Planning Branch of the Ministry.

The intent of the Basic Planning Statement is to provide a general, simplified document that indicates the preferred direction for development within the municipality. There should be no specifics included in the document so that it is easily understood by members of the public. Unlike Ontario, the Basic Planning Statement or a Development Plan must be in place prior to the adoption of any zoning regulations.

- The Development Plan

The Development Plan is more specific than the Basic Planning Statement. Section 51 of the Act specifies that "the purposes of a development plan are:

- a) to serve as a framework whereby the municipality may be guided in making development decisions;
- b) to identify the factors relevant to the use and development of land
- c) to identify the critical problems and opportunities concerning the development of land and the social, environmental and economic effects of that development;
- d) to set out the desired timing, patterns and characteristics of the future physical, social and economic development of the municipality and to determine the probable consequences of that development;
- e) to establish and specify the programs and actions necessary for the implementation of the development plan; and
- f) to outline the methods whereby the best use and development of land and other resources in adjacent municipalities, or affected areas immediately abutting thereto, may be coordinated."

Therefore, the Development Plan is normally characterized by policy statements pertaining to land use, conservation and municipal services. It is interesting to note that the Planning Act is devised to encourage discussion between the Minister and rural councils, for a development plan can be implemented at the discretion of council or at the direction of the Minister. The directive from the Minister can only be ordered after he has taken the time for consultation with the council.

- The Zoning Bylaw

A zoning bylaw can only be prepared in conjunction with, or after the implementation of a Basic Planning Statement and a Development Plan. Although the intent of this stipulation is not specified by the Act, it appears to answer the public's fear in B.C. pertaining to the restrictive and bureaucratic nature of zoning. It would be difficult to argue against the regulations imposed by zoning after their need is determined through a participatory planning process. In other words, if people understand that the regulations are being imposed to improve their lifestyle, rather than hinder it, there should be less objection.

The zoning bylaw can regulate similar items to those contained within the Alberta and Ontario Planning Acts. Council, through the zoning bylaw, can establish separate districts for the purpose of regulating or controlling:

1. development standards;
2. the permitted uses of land or buildings;
3. the minimum and maximum area and dimensions of lots;
4. the percentage area of a lot that a building may occupy and the size of yards, courts and other open spaces;
5. the location, height, number of stories, area, volume or dimensions of building construction;
6. the provision and maintenance of loading and parking facilities;
7. the landscaping of land or buildings;
8. the permissible density of populations;

9. the amount and nature of sound that may be emitted from within a parcel of land.

Council's authority is expanded to regulate or prohibit:

1. development on land: that is subject to flooding or is unstable; where the cost of providing public utilities would be prohibitive; within a specified distance of any body of water; within a specified distance from an airport; and on the basis of land or resource capability;
2. the outdoor storage of goods, vehicles, waste materials and other such items;
3. the public display of signs and advertisements;
4. the exterior lighting on buildings or land;
5. the alteration of land levels for building or other purposes where surface drainage or land stability is affected; and
6. the location of trailers and mobile homes, trailer parks and mobile home parks.

Of interest to this study are the additional powers of discretionary zoning and direct control districts, available to council. Using discretionary zoning, council can specify preferred uses within the municipality, and offer flexible controls to attract these uses. Basically, a person can apply to council for approval of a discretionary use, and council can approve the application where it is not contrary to the development plan or the basic planning statement, and will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity of the property. Council's decision on an application for a discretionary use is final and cannot be appealed.

When council approves a discretionary use, it can set development standards. If the applicant feels these standards are unreasonable, he can appeal to the Municipal Appeals Board. If the applicant does not gain satisfaction at that level, he can appeal to the Provincial Planning Appeals Board.

The direct control zones are established where council considers it desirable to exercise particular control over the use and development of land or buildings. The purpose of this district is to impose specific development guidelines to ensure the quality of development desired by the council.

With the implementation of any of the planning documents controlling land use, the Planning Act specifies the need for public participation. Council must give notice of its intention to adopt or amend a development plan, basic planning statement or zoning bylaw, through an advertisement published at least once on two consecutive weeks in a local newspaper. Council must then hold a public hearing for the purpose of allowing concerned or interested individuals to make representation on the proposed bylaw and make it available, at cost, to any interested person.

In summary, rural land in Saskatchewan is controlled locally by the council of a 'rural municipality'. This council may adopt:

1. a Basic Planning Statement;
2. a Development Plan; and
3. a Zoning Bylaw.

For the purpose of this study, it should be noted that a development proposal that is inconsistent with these instruments would require three separate amendments and public hearings. Therefore, the process can only be considered as cumbersome.

CHAPTER 4

RURAL PLANNING IN BRITISH COLUMBIA

4.0 Introduction

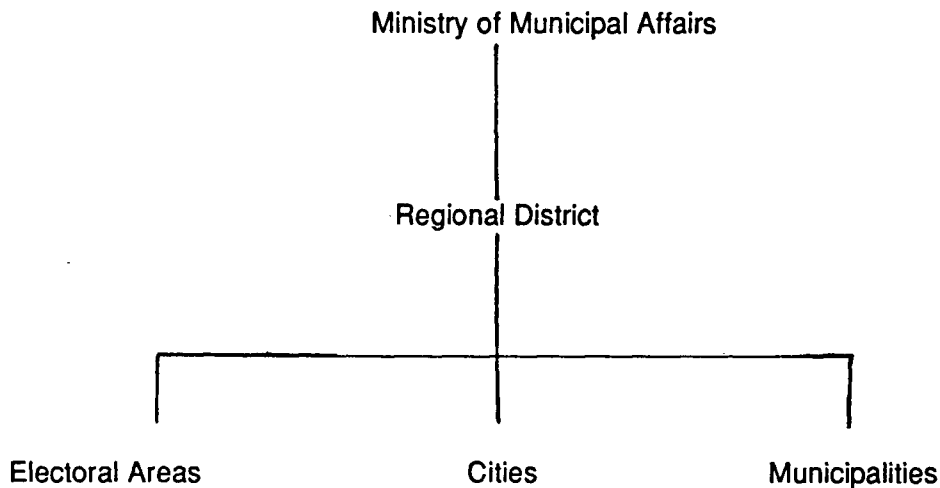
The intent of this chapter is to describe the administrative structure for rural land use planning in B.C. The chapter starts by describing the government hierarchy that is involved with rural planning. It then focuses on the responsibilities of the provincial government vs the authority of the regional district. As the regional district is responsible for implementing controls on private land, there is a detailed discussion of changes in the rural planning process brought about by the adoption of Bill 62 in 1985.

4.1 Background

The Province of British Columbia is a vast area that comprises some 948,000 square kilometers. The topography is generally mountainous in nature, with settlements occurring in the valleys. The areas incorporated into the municipalities "...comprise just over one half of one percent of the land area but contain eighty percent of the population." (Government Statistics, Regional Districts, 1982). Of concern to this study is the 99.5% of the land that has not been incorporated.

For the purpose of planning, the local government structure consists of electoral areas, incorporated municipalities, regional districts and the

Ministry of Municipal Affairs, as shown in the following chart.



The province has about 120 incorporated cities and municipalities and twenty-eight regional districts to administer planning on a local basis. The government body of interest to this study is the regional district. It is the regional district that has the potential to control development on private land in unincorporated areas.

However, prior to a discussion of regional districts, it must be made clear that development on 'public' land is largely controlled by a number of different provincial Ministries that exercise the provincial prerogative of a senior level of government. As a result, the majority of public land is beyond the mandate or development controls of the regional district, which is a local authority. To illustrate the extent and type of regulations typically imposed by these agencies in rural areas, the Farleigh Lake/Shatford Creek Planning Area, within the Okanagan-Similkameen Regional District, is examined in the following paragraphs.

The variety of government regulations in force in the Farleigh Lake/Shatford Creek when the regional district initiated a rural land use bylaw in 1987 were:

a) The Agriculture Land Commission Act, RS Chapter 9, 1979

Most of the land capable of development in the Farleigh Lake Area was within the Agricultural Land Reserve (ALR) which is administered by the Agricultural Land Commission. The ALR serves as a method for preserving farmland and potential agricultural lands from encroachment of non-agricultural development. The use of land within the ALR is limited to agricultural and other uses that do not diminish it's agricultural capability. Specifically, the Agricultural Land Commission Act (section 15(2) states that "No person shall use agricultural land for any purpose other than farm use, except as permitted by this Act, the regulations or an order of the commission, on terms the commission may impose."

If property owners wish to develop their land for other purposes, there is an application procedure by which the Land Commission reviews the proposal: Section 20(1) of the Act outlines the procedure for submission of an application to the Agricultural Land Commission for consideration of a request for non-farm use or subdivision; Section 12(1) details the application necessary for the A.L.C. to consider a request for the exclusion of land from the A.L.R.; and B.C. regulations 8/81 illustrates the procedure for filing a 'schedule F' application for consideration of special case requests that do not have an irreversible impact on agricultural land.

A regional district must recognize this superior provincial legislation. The Agricultural Land Commission Act (section 16(a)) states that "a municipality or regional district, or authority, board or other agency established by it or person designated under the Local Area Act may not permit agricultural land to be used for other than farm use, or permit a building to be erected on the land except for farm use or for residences necessary to farm use or as permitted by regulation;". However, it is possible for a regional district to support, by resolution, an application to the Agricultural Land Commission if it is deemed compatible with land capability, surrounding land use, etc.

b) The Forest Act- RS Chapter 140, 1979

Much of the remaining land in the Farleigh Lake/Shattford Creek Area is in the Okanagan Provincial Forest and therefore under the jurisdiction of the Ministry of Forests. The ministry has the authority for forest management through the Forest Act, Rs Chapter 140, 1979 which permits the land to be used by way of forest tenure agreements.

The Forest Act, section 5(4) specifies that "subject to the regulations, a Provincial Forest shall be managed and used only for:

- timber production, utilization and related purposes;
- forage production and grazing by livestock and wildlife;
- forest oriented recreation; and
- water, fisheries and wildlife resource purposes."

In addition, B.C. regs. 562/78 (O.C. 3226/78) Section 1 specifies that "a provincial forest may be managed and used for the following purposes:

- a sand, clay or gravel pit;
- a rock quarry;
- a garbage dump;
- an army range and demolition site;
- a construction, mine or fish camp;
- a well site;
- a residence, on an area of 5 hectares or less;
- a sports facility site;
- a shotgun range;
- churches, missions or schools;
- stores;
- service station;
- airstrip and landing field;
- television, radio, repeater or microwave station and tower;
- fish cannery;
- power site;
- powerline or pipeline right of way;
- the extraction of top soil, peat marl and diatomaceous earth;
- agriculture;
- fur farming;
- a purpose similar to any of these noted purposes, where the regional manager considers the use of the area is compatible with good forest management; and
- access to a site used for any of the noted purposes, or to private land."

Regional districts can zone Crown land, but the regulations imposed do not come into effect until the land is privately owned. If the activity on the land is contrary to the zoning, it would become a non-conforming use.

c) The Provincial Park Act- RS Chapter 309, 1979

A portion of the land within the study area is within the Apex Mountain Recreation Area. As a result, the provincial government, through the Minister of Parks, has the power to control occupancy, land use, development, exploration or extraction of a natural resource on or in this portion of the study area (Section 8(2)(b), 9(1)(d), 9(2) and sec. 12(4). In other words, although the recreation area has been set aside primarily for recreation use (as per the Park Act, RS Chapter 3, 1979 section 3), other resource oriented activities may be permitted if they do not materially detract from the areas recreation potential.

d) The Land Act- Rs Chapter 214, 1979

Crown land within the plan area that is not under administration of another ministry, branch or agency of government is regulated by the Ministry of Crown Lands. Use on crown land is dependent upon the granting of rights from the Crown in the form of:

- a temporary occupancy permit (sec. 10);
- a lease (sec.35);
- a licence of occupation (sec. 36) and
- the creation of a right of way or easement (sec. 37)

The Ministry also has the ability to dispose of crown land through the

crown grant process as described in Part 4 of the Land Act. While regional districts have no direct control over crown land, it should be noted that regional districts do have some input into proposed development schemes on crown land through a referral process (eg. applications for tenure are referred to local government for comment).

It should be clear from the foregoing discussion on provincial regulations that there are many potential development problems that are outside the mandate of regional districts. However, to plan effectively, each regional district must be aware of this potential and the development plans of each ministry in order to regulate development on adjacent private lands.

While input to provincial development plans is limited, each regional district can lobby on behalf of the rural residents within its jurisdiction. To better understand the role of regional districts, the following section briefly outlines the history of regional districts and delineates their role as 'local government'.

4.2 Regional Districts

Regional districts were created by legislation in 1965. They were adopted because "...by the mid-1960's it had become increasingly clear that the existing municipalities in the province were no longer adequate vehicles for providing certain services ..." to the public. (Department of Municipal Affairs, General Review - Regional Districts in British Columbia, 1971). Prior to the establishment of regional districts, local government services were provided by special water and sewer boards, joint agreements between municipalities, and through the implementation of

several hundred improvement districts outside of municipal boundaries.

"The danger was appearing, as it had in other jurisdictions, that the number of such agencies would proliferate to the point that in many areas there would be a multitude of different agencies providing various services and drawing on the same taxpayer in a completely uncoordinated and random fashion." (Ibid) Regional districts were developed to ensure that this danger did not materialize.

The legislation creating regional districts provides for the Provincial Cabinet to set out, by Letters Patent, the responsibilities of each regional district. Therefore, it is possible for various regional districts to have differing responsibilities. The governing body of a regional district is the Regional Board. "The Regional Board is composed of Directors appointed by and from the Councils, in the case of the incorporated municipalities, and by direct election from the electoral areas. Voting on the Board is weighted according to the population represented by each Director." (Ibid, p.6) Generally speaking, there is almost equal representation between incorporated and unincorporated areas. Unlike the situation in Alberta, this results in a somewhat urban bias because, for the rural areas to sway a Regional Board decision, there must in most cases be complete unanimity among rural representatives and some support from at least one urban representative.

A good example of this is the voting distribution within the Columbia-Shuswap Regional District. Within this regional district Revelstoke, Salmon Arm and Golden are each represented by one Director. However,

these three Directors have eleven votes. The six electoral areas are represented by six Directors, who have among them ten votes.

Theoretically, the possibility of getting agreement among the three urban representatives would be greater than the potential for agreement among the six electoral area representatives. Therefore, policy decisions could easily be biased towards urban oriented interests.

Traditionally, regional districts provide the following functions (although there can be some variation because of different Letters Patent):

1. act as the board for the regional hospital district;
2. exercise planning, building, zoning and subdivision regulations in nonmunicipal areas;
3. provide local services in nonmunicipal areas on a benefiting-area basis;
4. undertake any service for a municipality on a contract basis;
5. make grants-in-aid to organizations benefiting the region;
6. finance municipal works and services such as sewer, water, and pollution control facilities (Ibid, p.7).

In addition, "Not all parts of the region need be included in a particular function. The Letters Patent can be tailored so that certain functions are on a subregion basis, whereas others will encompass all member areas and be on a truly regional basis" (Ibid).

The function delineated further in this study is the 'planning function'. In British Columbia, unlike Alberta, Ontario and Saskatchewan, planning within rural areas is controlled through the Municipal Act. This Act

specifies most of the powers and procedures governing both regional districts and municipal government. The planning function for these bodies is found in only a few of the roughly 300 pages that comprise the Act. In the next section, the planning process prior to Bill 62 and the impetus for change will be described in detail.

4.3 The Pre-Bill 62 Planning Process

Prior to a discussion of the Rural Land Use Bylaw, the planning process and thus the land use controls prior to the implementation of Bill 62 must be clarified. It is also important to note that the climate for change in the planning process had already been established by the provincial government prior to Bill 62. Bill 62 is the legislation that provided real change in the planning process by the development of the RLUB- but the provincial government had already eliminated the provision for an 'Official Regional Plan' by repealing Section 807 and 808 of the Municipal Act.

These sections required regional districts to prepare a plan that was applicable to the entire area under its jurisdiction. The intent of the Official Regional Plan was the presentation of a generalized statement (without specific detail) to project or plan for land uses in the region. Since these projected uses were not specific to particular properties, this document was generally more of an economic development statement that delineated preferred activities in the region. When the government repealed the enabling legislation for these documents, they also repealed all existing official regional plans in the province.

In addition, the provincial government repealed section 815 of the Municipal Act, which provided for the formation of a technical planning committee. This committee consisted of the regional district planning director, the local medical health officer, a municipal employee of each municipality within the regional district, one representative of all the relevant provincial government agencies, an employee of the local school board and representatives of relevant federal government agencies. The intent of the technical planning committee was to ensure cooperative advice to the regional district board on planning issues. With the repeal of the 'Official Regional Plan' and the 'technical planning committee', a climate of change was established.

The planning process followed by Regional Districts prior to the enactment of Bill 62 involved the use of an 'Official Settlement Plan' and a 'Zoning Bylaw'- two completely different documents. The Official Settlement Plan was the instrument to develop long range planning goals that were to assist in evaluating development proposals. The Zoning Bylaw normally reflected existing development and did not provide guidance for the future use of rural land.

The authority to implement these instruments was granted to local governments by the Municipal Act under Part 24, Section 809 and 810 (Official Settlement Plans) and Section 814 (referring to Part 21, Division 3, Section 716 - Zoning). The initiation of an Official Settlement Plan was solely the responsibility of the Regional District.

In fact, wide powers were delegated to the regional district. Although

under subsection 5 the bylaw did not come into effect until approved by the Minister of Municipal Affairs, the regional district could unilaterally prepare an official settlement plan for any area outside an incorporated settlement. It would be forwarded to the Minister of Municipal Affairs for approval after being adopted by an affirmative vote of the majority of the regional district directors at a meeting.

The official settlement plan was to "... contain a statement of broad social, economic and environmental objectives to be achieved by implementation of the plan and a statement of the policies of the regional board on the general form and character of the future land use pattern in the area covered by the plan ..." (Municipal Act, Sec. 810(1).

Prior to amendment, the Municipal Act (sec. 810 (2)) also specified that an official settlement plan shall include:"

1. the location, amount and type of major commercial, industrial, institutional, recreation and public utility uses;
2. the location, amount, type and density of residential development required to meet the anticipated housing needs over a period of at least 5 years in the area covered by the plan;
3. the protection of land areas subject to hazardous conditions;
4. the preservation, protection and enhancement of land and water areas of special importance for scenic or recreational value or natural, historical or scientific interest;
5. the preservation and continuing use of agricultural land for present and future food production;
6. the proposed sequence of urban development and redevelopment,

- including, where ascertainable, the proposed timing, location and phasing of trunk sewer and water services;
7. the need for and provision of public facilities, including schools, parks and solid waste disposal sites;
 8. the location in schematic form of a major road system for the plan area;
 9. the location, amount and type of development to be permitted within 1 km of a controlled access highway designated under Part 6 of the Highway Act;
 10. the distribution of major land use areas and concentrations of activity in relation to the provision of existing or potential public transit services;
 11. a program identifying the actions required by the regional board to implement the official settlement plan; and
 12. other matters that may be required by the minister."

Furthermore, the regional district was also charged with considering the rather overwhelming social, economic and environmental consequences of the official settlement plan.

The only public input, or method of objecting to the implementation of a settlement plan was specified in section 720 of the Municipal Act. This section required the regional district to hold a public hearing, with the proper notification and advertising. At the public hearing, any people who deemed their interests affected by the proposed plan were required to be given an opportunity to be heard.

However, it was up to the individual directors to evaluate what importance to place on this input. It was possible for every member of the public in attendance to oppose the proposed plan and still have it adopted by a majority of the Directors. There was no requirement for a referendum to establish the will of the people in the study area. Yet, it is important to realize that, through election, the directors had a mandate to represent the "public interest". For example, land use designations were frequently proposed in order to reduce servicing costs for the entire district. If dissatisfied, the public in the electoral areas had the opportunity to elect different directors at the next election.

To supplement the official settlement plan the regional district was empowered, under Section 814 of the Municipal Act, to enact a zoning bylaw in accordance with Division (3) of Part 21. Normally, the regional districts adopted a zoning bylaw prior to the formulation of an official settlement plan. The zoning bylaw was used as a method for restricting unplanned development; therefore, it had a tendency to reflect the status quo.

A zoning bylaw implemented under section 716 of the Municipal Act could:

- "1. divide all or part of the area of the municipality into zones and define each zone either by map, plan or description, or any combination of them;
2. regulate the use of land, buildings and structures, including the surface of water, within the zones, and the regulations may be different for different zones and for different uses within a zone, and for the purposes of this paragraph the power to regulate includes the

- power to prohibit particular uses in specified zones;
3. regulate the size, shape and siting of buildings and structures within the zones, and provide for different regulations pertaining to each use or zone; and
 4. without limiting the generality of paragraph (2), require the owners or occupiers of any building in a zone to provide off street parking and loading space, and may classify buildings and differentiate and discriminate between classes with respect to the amount of space to be provided..."

Like the official settlement plan, the implementation of a zoning bylaw required a public hearing as specified in Section 720 of the Municipal Act. It is important to note that, because the zoning bylaw was normally adopted prior to the official settlement plan, there were often discrepancies between the land use designation for future development and the zoning bylaw reflecting existing use.

The planning process prior to Bill 62 contained some obvious flaws. It is easy to understand how the public could be confused by the bureaucratic process involved in altering or amending two bylaws. If a proposed development was inconsistent with a land use designation, an amendment to the official settlement plan was first required. This amendment required a public hearing and affirmative vote of a majority of the regional board directors before adoption - a process identical to that used in establishing the official settlement plan. This was required by Section 809 (7) which stated " the regional board ... shall not adopt a bylaw... contrary to or at variance with an official settlement plan."

As a second step in the planning process the local government would then be required to amend the zoning bylaw. This process would again involve a public hearing and an affirmative vote by a majority of the regional board directors before adoption. In retrospect, it is clear that the dual amendments required to the official settlement plan and the zoning bylaw were a duplication of effort- even when done concurrently.

In addition, since a zoning bylaw was normally adopted prior to an official settlement plan , it did not usually reflect the proposed future land use. In other words, if a person had input to from an official settlement plan that a development proposal was acceptable, he would then be required to submit a rezoning application. This duplication of effort and inconsistency between bylaws was difficult to explain to rural residents.

From one perspective, the zoning bylaw should have been amended to reflect the future land use designations in the official settlement plan. It may, however, be argued that the zoning bylaw was not amended in order to promote the sequential development of land (i.e. orderly development of adjacent properties) and thus a reduction of servicing costs. However, in reality, an official settlement plan was to be reviewed every five years to ensure the suitability of existing designations. Therefore, the land use designations rarely promoted development that would have generated exorbitant servicing costs.

Practically speaking, one reason why the zoning bylaw was not amended

after the adoption of the official settlement plan was the provincial grant system. The regional districts were able to receive funding for the preparation of official settlement plans through planning grants from the provincial government. However, the provincial government maintained that a zoning bylaw was a regulatory tool, and that it was the responsibility of the regional district to update it when required. In other words, funding was not provided.

It can be argued that many regional districts prepared official settlement plans throughout their regions in order to supplement their operating budgets - irrespective of the needs or preferences of the people.

Furthermore, by not amending the zoning bylaw, the regional district was able to recover administrative costs through the application fees levied for the zoning bylaw amendments. Yet, to my knowledge, applicants did not object to the rezoning fee even if the application complied with the settlement plan- perhaps because it was realized the planning department would support the rezoning.

Rather than criticize the cost of a rezoning application, most people appeared to be concerned about the inflexibility of land use controls. In many instances, this perceived lack of flexibility was the result of their livelihood being related to the use of their land. Natural resource based economies are subject to 'boom & bust' cycles and as a result, many marginal activities spring up during a downturn, such as equipment repair, contracting, retail sales of crafts, etc., in order to generate income that would not normally occur during more prosperous times.

Regardless of the reasons for public dissatisfaction with the planning process prior to Bill 62, the Minister responded by questioning the validity of the planning process. A September 4, 1983 article in the Vancouver Sun portrayed Municipal Affairs Minister Bill Ritchie as wanting to abolish planning departments in B.C. cities and towns. He was quoted as saying "I fully believe once an official municipal plan is in place, there is no further need for planning personnel." In addition, during his 1983 address to the annual meeting of the Union of British Columbia Municipalities the Minister is quoted as stating "I remain convinced that the significance of regional planning is rapidly declining" (Minutes of the 80th Annual Convention of the U.B.C.M., p.91).

He maintained this position for the next two years, with similar statements being made at the 82nd Annual Convention when Bill 62 was being discussed. The following excerpts from his address to the Convention (1985) are self-explanatory: "No amount of planning is effective without a smoothly functioning mechanism to carry it out and this brings me to one of the most significant measures I've taken since assuming this portfolio. I'm referring to the introduction of Bill 62 ... Bill 62 aims to facilitate the development of our communities by tuning up the regulatory machine. It follows an agenda of deregulation and process streamlining which will cut costs, time and effort, all of which have blocked or impeded essential development and economic renewal The central theme is deregulation, which has been applied especially in rural areas. It will enable a fast response, without the meaningless red tape which has proliferated, unchecked, to an alarming extent over the years ... a fact to which most of us can attest from personal experience."

4.4 Bill 62 and the Rural Land Use Bylaw

The authors of the Rural Land Use Bill, Elizabeth Cull and Erik Karlsen of the Development Services Branch of the Ministry of Municipal Affairs, were interviewed to determine how the new legislation was prepared.

They indicated that its development was in response to their perceived interpretation of a political reality. The new legislation was not at the specific request of the Minister of Municipal Affairs, however, it was portrayed that Mr. Ritchie's well known position (and for that matter the provincial government of the day's position) that planning had a tendency to create unnecessary bureaucracy or regulations did influence their decision to review the existing legislation. A sign of the times, and an indication of the government's opinion of planners in general, was the 1985 directive from the Minister of Lands, Parks and Housing to have all lands branch 'planners' reclassified as 'development officers'.

As a result, the Development Services Branch began to actively review their policies and procedures in order to respond to the perceived concerns of the Government. Cull stated that a basic draft for the RLUB was generated in a brain storming session that involved the same analysis of the planning process as presented in the preceding section, and the development of the conceptual changes required to compensate for flaws in the existing legislation.

In the Ministry of Municipal Affairs' guide to rural land use bylaws, there

is confirmation that the pre-Bill 62 planning process was "... perceived by the development community and the general public to be unnecessarily cumbersome..." and that '... the public failed to understand the difference between ... regulatory bylaws and indeed, the differences between the three bylaws were often hard to distinguish.'"(A Guide To Rural Land Use Bylaw, 1986, p.2) The three bylaws referred to in this instance were:

1. The Official Settlement Plan, which contained broad planning statements to direct development within a specified area;
2. The Zoning Bylaw, which would contain specific regulations pertaining to permitted land uses; and
3. The Subdivision Bylaw.

As a result of these impressions of planning in rural areas, the new legislation was adopted in 1985. It repealed Section 809 of the Municipal Act (the authority for regional districts to implement official settlement plans) and replaced it with legislation for 'Official Community Plans' and 'Rural Land Use Bylaws'.

However, it should be noted that all existing settlement plans remained in force. This prevented the occurrence of a planning 'vacuum', or a total lack of direction within rural areas.

The new legislation left it up to the rural residents to decide if the planning that had taken place in their respective areas was acceptable. With Section 951 of the Municipal Act, rural residents were given the options of:

1. replacing existing official settlement plans and zoning bylaws with a rural land use bylaw; or
2. repealing the O.S.P. regulations without substituting a RLUB. This would have the effect of removing the planning regulations pertaining to such specifics as setbacks and height restrictions, but not the land use restrictions imposed by the regional district.

For rural residents to take action to replace or remove the planning regulations imposed by a regional district, a petition signed by a minimum of 2/3 of the electors in the planning area is required. To date, no rural area in British Columbia has used this option.

Bill 62 actually introduced two planning tools for unincorporated areas. The 'official community plan' and the 'rural land use bylaw'. The official community plan applies to areas designated by the Minister of Municipal Affairs as a community plan area. Generally speaking, an official community plan is intended to apply to urban fringe areas that experience a wide variety of land uses, high growth pressure and have the potential for services to be extended from a 'parent' or incorporated community.

The Ministry of Municipal Affairs has set criteria that differentiate between the use of an official community plan and a rural land use bylaw. The Ministry notes that a rural land use bylaw should be chosen over an official settlement plan when there is":

1. Limited range of land uses.
2. Mixing of different types of land use in the same area (for example, commercial and residential, industrial and residential). Little community desire for greater separation.

3. Little or no growth pressure.
4. Limited services, no community sewer existing or planned.
5. Little desire on the part of residents for development controls. and
6. No need to use development permits to achieve goals related to heritage preservation, commercial revitalization, or the aesthetic considerations of commercial, industrial and multi-family developments." (Ibid, p.7)

The main reason for a rural land use bylaw under these circumstances is that it is far more simplistic than an official community plan. An official community plan, as specified in Section 945 (2) of the Municipal Act, should include:"

- a) the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years,
- b) the approximate location, amount and type of present and proposed commercial, industrial, institutional, agricultural, recreational and public utility land uses,
- c) the approximate location and area of sand and gravel deposits that are suitable for future sand and gravel extraction,
- d) restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development,
- e) the approximate location and phasing of any major road, sewer and water systems,
- f) the approximate location and type of present and proposed public facilities including schools, parks and waste treatment and disposal sites, and

g) other matters that may be required or authorized by the minister."

These responsibilities compare closely to those previously incorporated into official settlement plans prior to their repeal. In fact, referring back to page 60 of this study, clauses a, b, d, e and f are virtually identical to responsibilities that previously pertained to official settlement plans. The main difference between the O.S.P. and the O.C.P. is the removal of the regional district's responsibilities for preserving agricultural land, and the preservation, protection and enhancement of land or water with special scenic, recreational or natural interest.

However, of primary concern to this study is the rural land use bylaw which is intended as the planning instrument for most of the rural areas of the province. With the adoption of the rural land use bylaw provisions of the Act, the Ministry of Municipal Affairs recognized the development stages within rural areas proposed by Alan Hahn and described in Chapter 2.

Hahn detailed a minimum of three distinct categories that span the development spectrum within rural areas. In developing the RLUB, the staff of the Ministry of Municipal Affairs proposed a range of increasing land use complexity that exceeded Hahn's three categories. In the Ministry's 'Guide to Rural Land Use Bylaws', the following continuum is described:

INCREASING RANGE OF LAND USE COMPLEXITY -->

Wilderness	Undeveloped	Rural	Rural	Unincorporated	Fringe
Resource	Rural Area	Settlement	Settlement	Community	Areas
Area		with a			
		service			
		centre			

In accordance with the criteria previously described for the implementation of a rural land use bylaw, the ministerial guidelines specify that a RLUB would be most appropriate for " ... undeveloped rural areas, rural settlements, rural settlements with a service centre and some, but not all, unincorporated communities" (Ibid, p. 7). The characteristics of these areas are specified as: "

Undeveloped Rural

- limited range of land uses
- low population, low density
- low growth pressure
- extensive land areas used primarily for forestry, fishing agriculture, backcountry recreation, etc.
- no sewer or water services

Rural Settlement

- limited variety of land uses including some commercial & industry
- more heavily settled, some pattern of settlement
- may share some in-ground services
- a very small node with a concentration of population, but generally fairly dispersed
- little or variable growth pressure

Rural Settlement/Service Centre

- at least one node providing rural services and a mixture of commercial, retail, industrial and residential uses
- in addition to dispersed settlement there may be settlement concentrations on water
- some growth pressure"

Unincorporated Community

- basically a "village" in all but name
- not associated with a parent community
- may have medium to high growth pressure
- probably has community water and may have sewer

Prior to 1985, all of these areas would be considered appropriate for official settlement plans. The change to rural land use bylaws simplifies planning regulations within one document. However, this document is divided into two parts- part one is intended to act as an official community plan, while part two is to have the same effect as a zoning bylaw. The Municipal Act (sec. 952) specifies that part one should be a general statement of the broad objectives and policies of the board respecting present and proposed land use; and that part two may contain provision and regulations pertaining to:"

- 1) the location of areas for residential, commercial, industrial, institutional, agricultural, recreational or public utility land uses;
- i.) the density of the use of land;
- ii) conditions, requirements and restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive

- to development;
- iii) the approximate location and phasing of major road systems;
 - iv) the area, including minimum and maximum sizes, of parcels of land to be created by subdivision and servicing standards required for land use designations under subparagraph (i);
 - v) the siting of buildings and structures; and
 - vi) other matters that may, in respect of any rural land use bylaw, be required or authorized by the minister."

Through a comparison of these provisions with the zoning authority previously used by regional districts (as described on p. 62), it is apparent that the RLUB provisions provide for less restrictive land use controls. With the RLUB, there is for example no provision for regulating the size of buildings, off-street parking or loading areas.

There are other important differences between the RLUB and the Pre-Bill 62 planning process. One is that the Minister of Municipal Affairs must designate a rural area to be 'a rural planning area', either upon a request from a regional board, or upon receiving a petition from two thirds of the electors within a specified area. Previously, a regional district had the authority to implement a planning study without Ministerial approval- although once completed, ratification by the Minister was still necessary. As with the OSP, prior to adopting a RLUB, a regional board must hold a public hearing.

This leads to another important difference between the RLUB and Pre-Bill 62 planning process. With the RLUB, only one instrument requires

amendment and it should accurately reflect both planning policy and zoning. As a result, there should no longer be any discrepancies between regional district documents- as was frequently experienced between OSP's and zoning bylaws.

In summary, the new Rural Land Use Bylaw legislation proposed by the ministry was designed to present:

1. a single bylaw;
2. one set of land use designations;
3. broad land use categories; and
4. simplified regulations.

CHAPTER 5

COMPARATIVE ANALYSIS AND ASSESSMENT OF RURAL PLANNING IN B.C.

5.0 Introduction

This chapter presents a comparative analysis of the administrative structure and rural planning process in British Columbia (both before and after Bill 62), Alberta, Saskatchewan and Ontario. It also summarizes the results of a questionnaire which solicited comments on the acceptability of the present process from regional district officials throughout the province.

This analysis is intended to focus on the suitability of B.C.'s current planning process, and generate possible suggestions for improvements- if warranted.

5.1 Background

The information utilized in the comparative analysis is described in chapters 3 and 4. It was derived from interviews with planning professionals in each province, and a search through available literature. When initiating this research, it was anticipated that a variety of planning instruments would be found in the four provinces. However, this was not the case.

Each province has a type of 'Official Plan' that is used in conjunction with a zoning bylaw. In all cases, the official plan is a statement of planning objectives, while the zoning bylaw contains more restrictive regulatory controls. These instruments are not significantly different from the planning and regulatory controls that have been combined in the rural land use bylaw.

Instead, it is the government hierarchy and the planning philosophy adopted in the various provinces that plays a large part in influencing planning methodology. As a result, these factors will be analyzed in combination with the various features of the planning instruments used in each province. To conduct the analysis, a matrix using the following criteria is presented in a subsequent section:

a) Acceptance by professionals and the public;

- this criterion was selected because acceptance is needed for any legislation (no matter how well it is drafted) if it is to be effective.

The opinions of planning professionals will also be used to evaluate the success of each province in meeting this goal.

The weakness inherent in using this criterion is that it proved easier to confirm opinions in British Columbia than in other provinces. This is because regional planning problems tend to be reported by local media and rarely receive national exposure (ie. there is less 'common' knowledge of the problems the planning profession has experienced in Alberta, Saskatchewan or Ontario). In addition, because of the distance and cost

involved, contact with planning professionals in other provinces was restricted. Therefore, it must be realized that the opinions reflected in this study are not necessarily the opinions of the majority of the planners in each province.

b) Ease of amendment

- This criterion was selected as the excessive amount of time necessary for local authorities to process an amendment is one of the most common complaints made by the public. To evaluate the success of each province in meeting this goal, the planning legislation has been analyzed to determine the steps necessary to process an amendment. The assumption is made that the fewer referrals necessary in the amendment process, the less time it will take.

c) Flexibility

- The lack of flexibility in dealing with development proposals has also been a common complaint of the public. As discussed, many rural residents will attempt to meet their economic needs through a wide variety of supporting activities because of the 'Boom and Bust' syndrome that is typical in most resource regions. Therefore, any legislation that recognizes this necessity while still attempting to reduce the potential for conflict will be preferred.

d) Clarity of goals and objectives to reflect both 'public' & 'local' interests

- There is a need for the development goals of the various government agencies controlling public lands to be coordinated with development

goals applicable to private property. As previously noted, substantial and varied development is permitted on public lands in B.C. by several provincial Acts. If the potential for this development is not recognized, the possibility of conflict arises. The success of each province in meeting this criterion will be determined by the interaction between government agencies in the creation of plans and regulatory controls. This assumes that interaction equates to communication and the transfer of information necessary to plan effectively.

e) Simplicity

- Another common complaint heard from the public is that they do not understand the need for rural land use controls. Therefore, any planning document that is created should be sufficiently simple for the public at large to understand both the document and its intent. The success of each province in meeting this criterion depends on whether simplicity is stated as a specific goal; and the amount of public involvement in the formulation of planning policy. This assumes that a high level of public involvement necessitates communication that will help to indicate and clarify areas that the public does not understand, and that the planner will act to redraft the document accordingly.

5.2 Comparative Analysis

A matrix is utilized to present the comparative analysis of the planning systems in British Columbia, Alberta, Saskatchewan and Ontario. This method has been chosen as a graphic means to highlight the positive

aspects of each system in relation to the criteria. Each system is rated on a scale of one to three in the matrix, with one equating to a low rating and three equating to the highest possible rating. A rating of three is assigned where a particular feature has been incorporated into a methodology that is superior in nature.

The following analysis is subjective, but an explanation is provided to support why a particular province is rated superior in relation to specific criteria:

	Ease of				
	<u>Acceptance</u>	<u>Amendment</u>	<u>Flexibility</u>	<u>Clarity</u>	<u>Simplicity</u>
Pre Bill 62	1	2	2	2	2
RLUB	2	2	3	2	3
Alberta	3	1	2	2	2
Saskatchewan	3	1	3	2	1
Ontario	2	3	2	1	2

The general impression from preparing the matrix is that the rural land use bylaw is an acceptable, but not superior, planning tool.

It rates higher than the tools utilized in the other provinces as a result of obvious deficiencies in their planning process, not because of a clear superiority. For example, it only rates higher in 'Clarity' than Ontario's because of their lack of coordination between government agencies when formulating planning policy. As previously noted, the planning process for the formulation of 'official plans' does not directly involve other government agencies, and there is some dispute over the relevance of the

Ministry of Municipal Affairs land use controls when development on 'public' lands is being considered by other government agencies. This results in a lack of clarity between 'local' and 'provincial' interests.

Conversely, Ontario has a higher rating for ease of amendment once land use planning and associated controls have been implemented. Since Ontario is the only province which has not developed a type of regional government to administer rural areas, it places the Ontario Ministry of Municipal Affairs in the position to process amendments directly. This centralized control could result in rural residents expressing dissatisfaction with the planning process, as it does not provide an opportunity for input by concerned citizens. However, according to the provincial representative contacted, the government has not experienced many criticisms of their planning process.

The planning methodology in Alberta is rated slightly below the rural land use bylaw only because of the complicated process necessary to amend its planning instrument, the 'official regional plan'. To process an amendment, four levels of authority might have to be consulted. If a local municipal council approves an amendment, it must forward a request for consideration to a regional planning commission. Once approved by a commission, it is then forwarded to the Alberta Planning Board for approval. If the Planning Board certifies the requested amendment to be minor in nature, it has the authority to approve the request. However, if it does not certify the amendment as 'minor', ratification by the Minister of Municipal Affairs is necessary after the Planning Board gives its approval.

Perhaps surprisingly, the planning methodology in Alberta has been given a high acceptance rating. This is the result of the rural residents having been exposed to regulatory controls since the 1930s. Therefore, they appear to be more aware of the benefits provided by planning, and more tolerant of the potential for restrictive land use regulations. This tolerance is probably strengthened because of the strong rural bias in Alberta's regional planning commissions.

Planning in Saskatchewan presents a real dichotomy. It has the highest possible rating for acceptance and flexibility, while also having the lowest possible rating for simplicity and ease of amendment. A high rating has been given for acceptance by the public, because of the attention the Saskatchewan government gives to rural affairs. In fact, Saskatchewan is the only province researched that has created a Ministry to deal specifically with problems occurring in rural areas.

The high rating for flexibility in the planning process is given as a result of Saskatchewan's use of discretionary zoning as described in Chapter 3. It appears that 'preferred' uses can be permitted in a number of zones if the impact on surrounding properties is minimal. This is a novel concept that needs further exploration in B.C.

The low ratings given to Saskatchewan for simplicity and ease of amendment are the result of a legislative requirement for three planning documents- the basic planning statement, the development plan and the zoning bylaw. The public must refer to each document to determine the regulations applicable to a particular piece of property. There is also the

potential need for three separate amendments if a development proposal is contrary to all previously implemented regulations.

The other provinces require a maximum of two planning documents, with B.C.'s rural land use bylaw being the only comprehensive document that combines both planning policy and land use controls. For this reason, the rural land use bylaw is given the highest possible rating for simplicity.

The other high rating given to the RLUB is for flexibility. The desire for simplicity could lead to uncertainty in dealing with some development proposals because it does not provide for 'black' and 'white' answers. However, this provides planners with the opportunity to utilize their professional expertise in evaluating development proposals- to the benefit of rural residents.

Because of its simplicity and flexibility, the rural land use bylaw is preferred over the pre-Bill 62 planning legislation. The results of the questionnaire that was sent to practicing planners supports this position.

5.3 The Regional District Official's Opinion

1. Background

To determine the effectiveness of the RLUB, it is important to consider the opinions of practicing professionals within the province. To receive this input, a five page questionnaire was devised to, in part, solicit comments on the Rural Land Use Bylaw Legislation (see appendix 1). Of

the twenty-three questionnaires sent to regional districts, sixteen responses were received. Generally, the results showed that the RLUB is starting to be accepted and used by regional districts.

2. Regional District Comments on the Rural Land Use Bylaw

The results of the questionnaire indicate that the rural land use bylaw legislation is beginning to gain acceptance. Of the sixteen respondents, six regional districts are utilizing, or are in the process of developing, rural land use bylaws. In addition, I have personal knowledge that the Okanagan-Similkameen Regional District has implemented at least one RLUB. Therefore, seven out of seventeen regional districts are attempting to utilize the RLUB.

Another eight of the responding regional districts are not opposed to utilizing the RLUB. Rather, they are uninterested or felt no need to utilize it, largely because planning within their regions is somewhat inactive. Although the planning legislation for the RLUB was introduced in 1985, the majority of these seven respondents had not introduced new planning bylaws (exclusive of minor amending bylaws) in the past 5 years. It is their belief that the existing zoning bylaws and official settlement plans are sufficient to meet their planning needs.

This is somewhat unsettling, because the original intent for the official settlement plan was that they should be reviewed every five years. Since the legislation for the RLUB was adopted in 1985, most regional district planners should be looking at possible revisions and the options open to

them. Perhaps Jim McManus of the Alberni Clayoquot provides a possible answer to this situation when he states that they " have neither the staff nor resources to do what he feels they should do in his region."

It is somewhat disturbing that one of the remaining two respondents did not have knowledge of the intent of the RLUB legislation. This respondent is the regional district administrator for an area that uses consultants to develop and implement planning strategies, rather than employ a planner on a full-time basis. While I realize that, as an administrator the respondent has vast, diversified responsibilities, importance should still be placed on understanding the basic tools available to the consultants.

Only one regional district official felt that the RLUB was unacceptable. His concerns were mirrored by other individuals when they responded to the question pertaining to the weaknesses of of the RLUB. The main weaknesses of the RLUB were seen to be that it is:

1. cumbersome; due to the fact that all amendments must be approved by the Minister of Municipal Affairs; and
2. simplistic; in that it does not provide for the varying complexities found in the rural community. The respondent that felt the RLUB was unacceptable believes that (in some cases) "...the RLUB is not detailed enough to cover most circumstances of development in either a policy or regulatory sense." This is thought to result in unnecessary amendments because of varying or conflicting interpretations;

However, generally speaking, most of respondents felt that the idea and

concept of the RLUB has merit. The RLUB is seen as having the following strengths:

1. It provides an appropriate transition between no zoning and "full fledged" zoning;
2. It provides the tool to implement basic and simple community planning and zoning within the same framework;
3. It can be more readily understood by the public than the system of O.S.P.s and zoning bylaws that it replaced; and
4. If utilized properly, it allows considerable flexibility.

As a commentary on the strengths and weaknesses of the RLUB presented by the officials, it appears that the strengths outweigh the weaknesses. This does not mean that changes should not be made. The need for the Minister's approval of a planning area prior to a RLUB study is time consuming, as the planners involved in implementing a study must justify to the Minister the need for new regulations. In my opinion, the planner should not fear this accountability, as the need to obtain the approval for a study area from a third (supposedly impartial) party serves to legitimize the planning process. However, if there is a need to implement regulations, it could take up to several months to receive the Minister's approval.

Given that the aim of the Ministry of Municipal Affairs was to 'simplify' the planning process, it also appears redundant to require each minor amendment to have ministerial approval once the RLUB has been implemented. The amendment process for an RLUB is seen to be both

cumbersome and time consuming by most regional district planners. To improve the process, the Minister should delegate to the regional districts the authority to make 'minor' amendments to an approved rural land use bylaw. If this change to the process is made, it would serve to negate what I believe to be the most valid criticism of the RLUB legislation.

While several planners did respond with the comment that the RLUB is too simplistic, I would argue against this criticism. As Attachment 3 (a copy of the Farleigh Lake/Shatford Creek Rural Land Use Bylaw prepared by the Regional District of Okanagan-Similkameen) indicates, a rural land use bylaw can be prepared that provides for sophisticated and complex land use regulations. If there is a greater need of regulatory control than is provided by the RLUB, then the planner has the option of lobbying the Minister for implementation of an official community plan, as opposed to a rural land use bylaw.

CHAPTER 6

CONCLUSION

6.0 Conclusion

The objectives of this study were threefold:

1. to provide an understanding of the need for rural land use planning;
2. to describe and compare British Columbia's, Alberta's, Ontario's and Saskatchewan's current system for rural land use planning; and
3. if applicable, suggest improvements to B.C.'s rural planning process as a result of the research conducted.

I believe that the need for rural planning has been effectively demonstrated, as well as the suitability of some form of land use controls when rural areas are experiencing an 'urbanizing' trend. Although the degree of conflict over non-compatible land uses tends to be less in rural areas than in urban areas (due primarily to differing, more personal relationships between neighbours), planning does serve to support societal norms.

Proper planning can also produce:

- 1) on the local scene, there can be savings for both the farmer and

- government with reduced servicing costs; and
- 2) on the provincial or national scene, it can lead to the effective development of our natural resources- while still maintaining environmentally sensitive areas for the public good.

One fact that came to light through this research was that the basic premise for the planning instruments used in each province is quite similar. There is some variance in specific details but these differences are minor compared to the amazing lack of similarity in the government hierarchies created by each province to deal with rural planning. In the comparative analysis, it was determined that B.C.'s hierarchy combined with new legislation developing the Rural Land Use Bylaw provides for an acceptable- but not superior planning process. The positive features of the Rural Land Use Bylaw are:

1. it is simple, in that all planning policies are in one comprehensive document; and
2. it's simplicity leads to what I believe to be flexibility. As a result, there is an opportunity for planners to utilize their professional expertise in making decisions on non-black and white issues.

One of the weaknesses of the Rural Land Use Bylaw appears to be the need for each minor amendment to be approved by the Minister of Municipal Affairs. This adds an additional level of bureaucracy with few or no tangible benefits in the decision-making process. The results of the questionnaire that was sent to regional officials supports this position. The RLUB is gaining acceptance by regional districts as a means of

coordinating development, but the overall criticism of the legislation is that the amendment procedure is too cumbersome.

Therefore, I believe the Ministry of Municipal Affairs should create a definition for 'minor amendments' to be dealt with in the same manner as the Alberta Planning Board deals with bylaw amendments. In other words, with the establishment of guidelines for dealing with 'minor amendments', the Ministry of Municipal Affairs should delegate the authority to make bylaw amendments to local authorities. Of course, once the regional board has passed an amendment, they should forward the bylaw to the Ministry in order that records can be updated.

Such guidelines would improve the existing rural planning process, but there are also other possibilities for change. At the local government planning professional's level, I believe that there should also be a recognition that planning for the private use of rural land does not require the same types of stringent regulatory controls as urban land - unless it is in an 'urbanizing' state. Most of the planners that responded to the questionnaire incorporated into this study recognized the differing regulatory requirements between urban and rural land, but many do not account for it in their practice.

For example, almost all individuals responding to the questionnaire supported the concept that there is a 'threshold' parcel size at which regulatory controls became necessary. Yet, almost all regional districts had a comprehensive zoning bylaw in place to regulate even the remotest of areas. Implementation of such a bylaw seems to contradict the

knowledge gained through experience. To counter this contradiction, further research is required in the area of the implementation of regulatory controls related to parcel size.

The Regional District of Okanagan-Similkameen is one of the first to take such action. In their Farleigh Lake/Shatford Creek Rural Land Use Bylaw, it is recognized that parcel size does play a large role in determining whether a particular land use will have negative impacts. As a result of this recognition, there are two categories of 'Home Occupation' to facilitate the development of small businesses - while limiting the potential for land use conflicts. This is accomplished by permitting 'Major' home occupations on property designated as 'large holdings' and 'Minor' home occupations on properties designated as 'rural residential'.

As the designations imply, the significant difference between these parcel types is parcel size. By permitting these types of home occupations, the regional district has created a permissive zoning bylaw. There is a recognition that the potential for land use conflicts is minimal on the larger parcels if activities are confined to an envelope that has been calculated not to have a significant impact on neighbours or the public at large. Within a specified 'envelope', each type of home occupation permits industrial or commercial activity - with no significant limitations on type, other than a restriction against retail activities. From personal involvement in the preparation of this bylaw, it was my experience that this type of approach to implementing land use controls has the potential to be positively received by rural residents.

However, recognition that there is less need for stringent 'local' government land use controls within areas that Hahn (1970) would describe as 'completely rural' does not negate the need for a comprehensive and coordinated approach to planning for regional or large scale resource development. Having looked at the variety of government regulations and the potential for development contained within a 'typical' rural planning area in B.C., I would suggest that further detailed research on ways to improve coordinated regional planning between 'local' and 'provincial' governments is necessary.

To summarize the recommendations arising from this study, it is my belief that:

1. the Ministry of Municipal Affairs should delegate the authority to regional districts to make minor amendments to RLUBs;
2. there should be realization at the 'local' government or Regional District level that comprehensive land use controls are not necessary within completely rural areas; and
3. there should be further investigation into the feasibility of developing land use controls tied to parcel size and reducing reliance on the standard planning practice of separating use into residential, commercial and industrial activities.

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APPENDIX 1

RURAL LAND USE CONTROL QUESTIONNAIRE

NAME _____ POSITION _____

REGIONAL DISTRICT _____

=====

1. What is the rural population (i.e. outside incorporated areas) within your regional district?

2. On average, how many complaints pertaining to land use are received from rural residents per year?

3. Could you provide three examples of these complaints?

a) _____

b) _____

c) _____

4. In your opinion, are land use controls necessary for rural or unincorporated areas?

5. If yes, when do rural land use controls become necessary?

6. Is there a 'threshold' or minimum parcel size at which the necessity for land use controls become critical?

7. What are some of the problems that could be alleviated by rural land use controls?

8. Have you experienced circumstances in which rural residents supported the implementation of land use controls? If yes, please provide examples.

a)

b)

c)

9. Have you experienced circumstances in which rural residents did not support the implementation of land use controls? If yes, please provide examples.

a)

b)

c)

10. Does the regional district, as the local authority, presently utilize land use controls in the unincorporated areas of your regional district?

- If yes, what circumstances led to their imposition (eg. public requests, social or environmental problems, economic, etc.)

- If yes, what form do these land use controls take (eg. zoning, Official settlement Plans, Rural Land Use Bylaws)?

<u>TYPE</u>	<u>NUMBER IMPLEMENTED</u>	<u>AREA ENCOMPASSED IN Sq. Km.</u>			
		<5	>5<10	>10<25	>25
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

- If no, why have land use regulations not been implemented (eg. no need, lack of political will, public protests)?

11. If you have utilized the legislation in Part 29 (Management of Development), Division 2, Sections 950-953 to develop a Rural Land Use Bylaw, what (in your opinion) are the main strengths and weaknesses of the legislation?

- Strengths

- Weaknesses

12. If you have not developed a Rural Land Use Bylaw, is it because you feel there are inherent problems in the legislation, or just that circumstances within your regional district have not necessitated it's use? Please Explain.

13. Have you experience with alternative forms of rural land use control that are more effective than the Rural Land Use Bylaw?

14. If so, where were they utilized and could you describe briefly the features that made them more effective or efficient?

[illegible]

[illegible]

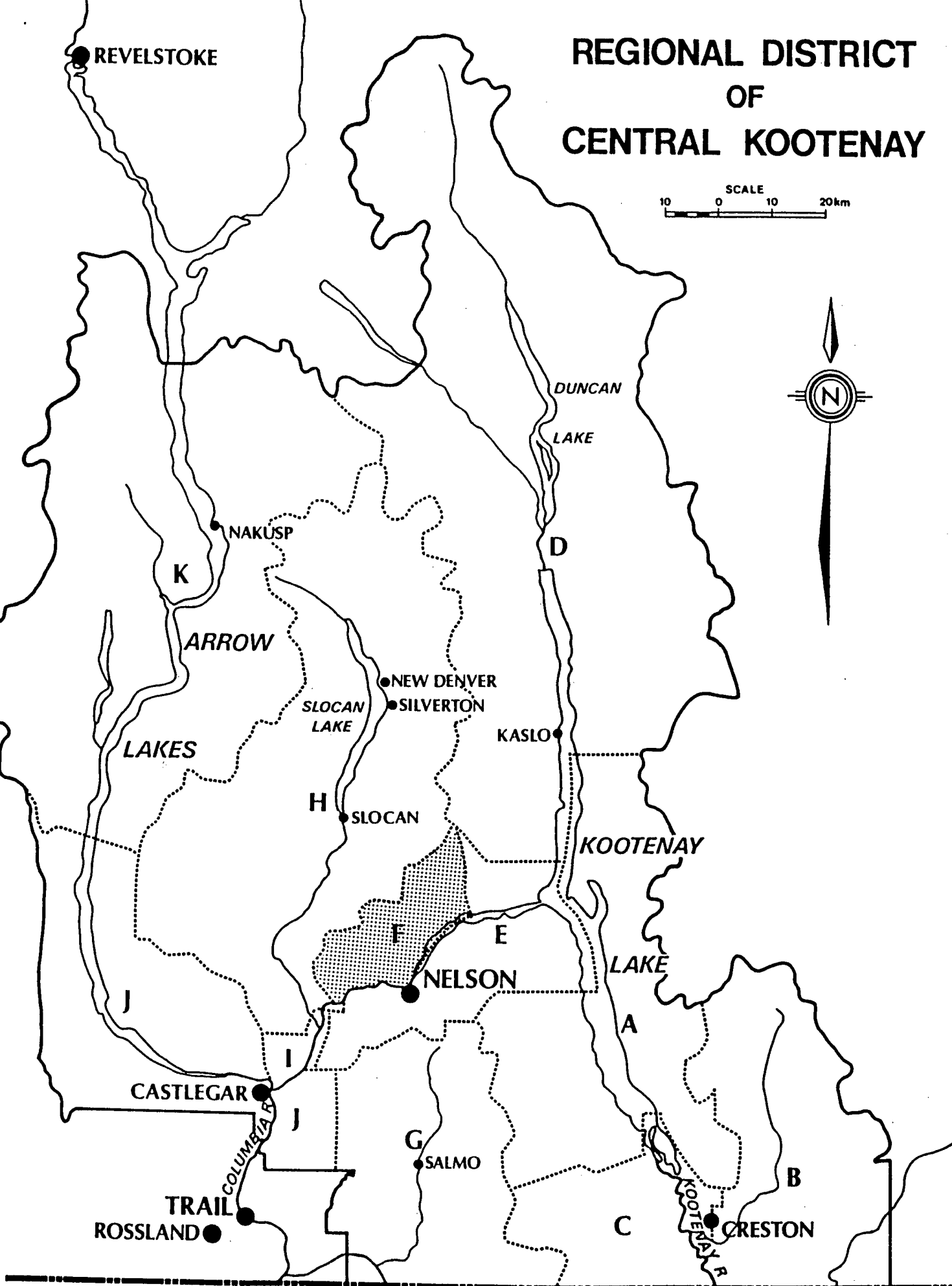
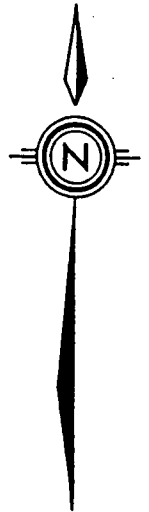
APPENDIX 2

ELECTORAL AREA 'F' RESIDENT SURVEY

Regional District of Central Kootenay
Planning Department

REGIONAL DISTRICT OF CENTRAL KOOTENAY

SCALE
10 0 10 20km



USA
122

ELECTORAL AREA 'F' RESIDENT SURVEY

Introduction

In the fall of 1988, the Board of the Regional District of Central Kootenay directed the Planning Department to undertake a questionnaire survey of residents of Electoral Area 'F' on planning. Discussions between the Electoral Area Director, his Advisory Planning Commission and Planning Department staff during the spring and summer of 1988 raised questions about planning for the area. Previous discussions regarding planning in Area 'F' were controversial and had proceeded only to the preliminary discussion stage. The survey approach was suggested as a method by which a representative sample of Area 'F' residents' attitudes toward land uses and planning could be obtained.

This report outlines the purpose of the research, provides the rationale behind the questionnaire design, describes the sample population and the method by which it was selected, summarizes and analyses the questionnaire results and draws conclusions from the analysis.

Purpose

The purpose of this study is to identify Electoral Area 'F' residents' attitudes about land uses and issues in their neighbourhoods. The survey is also intended to help determine whether community support exists, in principle, for some local public control of land use and development.

The survey findings will be used by the Area 'F' Director and Advisory Planning Commission as the basis for making a recommendation to the Regional Board whether or not a planning program should be initiated in Area 'F'

Questionnaire Design

The questionnaire begins with a cover page containing introductory remarks including statements on the purpose of the study and the confidentiality of information obtained (a copy of the questionnaire is attached as Appendix I).

The questionnaire is comprised mainly of fixed alternative questions. These fixed alternative questions have the advantages of being simple to administer and relatively quick and inexpensive to analyze. Fixed alternative questions may not give an adequate representation of attitudes, however, because none of the choices may correspond with an individual's opinion or they do not allow for qualification. Several open-ended questions were, therefore, included in the survey to allow respondents to comment or elaborate upon various items.

The preliminary questions on page 2 of the questionnaire are intended to provide an easy, non-threatening, yet salient, start to the survey. The first question focuses the respondents' attention on their specific neighbourhoods. Questions 2 and 3 continue the process of focussing the respondents' attention on their neighbourhoods by asking what they like about the neighbourhood and what they perceive to be an important problem in the neighbourhood. Because these questions precede any specific questions about attitudes toward various land uses and issues, the responses can be analyzed to indicate the factors/issues that are most important to respondents.

Question 4 requests demographic information about tenure.

Question 5 is a general question regarding the importance of various issues relating to land use. The items listed in question 5 generally correspond with items that are usually addressed in official community plans. Respondents were also asked to identify any other issues important to them that may not have been on the list.

Question 6 asks respondents to indicate their attitudes toward a variety of land uses. In order to reduce ambiguity in the question and to stimulate thought about specific land uses, respondents were asked to imagine that the property next to theirs was vacant. They were then asked to indicate their initial reaction about each land use, should that use locate next door.

There are two purposes to this question. The first, and most obvious, is identification of "not in my back yard" land uses. Second, uses that are acceptable are identified. In the rural and suburban areas of Electoral Area 'F' the land use pattern is characterized by a mixing of commercial and industrial uses in predominantly residential areas. Given this land use pattern, it was anticipated that a relatively high degree of acceptability of land uses not generally associated with residential areas might be exhibited.

Either question 7 or 8 was asked of each respondent based on their responses to question 6. Question 7 was asked of virtually all respondents as nearly every respondent disfavoured at least one or two uses. In future versions of this questionnaire, question 8 should be rewritten along the lines of question 7 and both questions asked of all respondents (if applicable).

Question 9 is the central question in this study. It was placed near the end of the survey so that respondents were given an opportunity to think about land uses and issues that they might not usually consider, prior to answering this question.

Questions 10 through 14 obtain demographic information that can be compared with Statistics Canada information to determine the representativeness of the sample. Question 12 was included specifically to find out whether any correlation exists between lot size and attitude toward land use planning.

The Sample

The number and location of households in Area 'F' was determined from land use maps prepared by the Regional District of Central Kootenay Planning Department in 1982. Building permit records were searched to identify new residential construction that occurred between June 1982 and October 1988. Assuming all dwellings for which permits had been issued were constructed, 1,170 dwellings existed in Area 'F' in the fall of 1988.

Balancing the constraints of time and cost against the need for a reliable cross-section of Area 'F' residents and an adequate sample size, it was decided to sample about 100 households.¹ Thus, one of approximately every 12 households in the area were selected. Starting near the South Slocan end of Area 'F', the first dwelling was selected randomly, in order to minimize sample bias, with each twelfth dwelling proceeding in a west - east direction selected after that one.

The original intent was to conduct face-to-face interviews. After about a dozen interviews, however, it became apparent that this method would be too time consuming and expensive. A decision was made to shift to telephone interviews. Because of higher refusal rates with telephone surveys, alternate households in the immediate vicinity of each sample household were selected if the interviewer was unable to contact the sample household after two attempts. Alternate households were selected from B. C. Assessment Authority property tax rolls.

1 Assuming 50 percent of respondents would agree with the principle of local control of land use and 50 percent would disagree; and that the tolerable margin of error at a 95 percent level of confidence was 10 percent, the required sample size would be 100 households.

After 30 interviews were conducted it was found that about 65 percent of the respondents agreed with the principle of local control of land use. On this basis the necessary sample size was revised down to 90.

Because of the shift to a telephone survey, two possible sources of sample bias were introduced. First, renters would likely be underrepresented in the survey because of the use of the property tax rolls in sample selection. Second, property owners without telephone listings would not be represented. Some of this bias was overcome by scanning the telephone book for property address information. This was possible because the Nelson and South Slokan listings consist of 17 and 2 1/2 pages respectively - but it was still a very time consuming task.

A total of 123 households were contacted in the course of the survey, of which 90 agreed to participate. Ten of the 33 people who refused to participate stated they were too old. The interviewer was instructed to ask the person to try a few questions and stop at any time if they did not wish to proceed; but not to pressure anyone into participating. As the interviews were conducted between about 6:30 and 9:00 p.m. on weeknights, eight households found it to be inconvenient to spend 15 minutes answering questions. Call backs could not be arranged for these eight households. For the remaining 15 refusals, no reasons were asked for or given. In the case of each refusal, an alternative interview in the immediate vicinity of the dwelling was conducted.

Demographic characteristics of the sample were compared with 1986 Census information relating to age, gender and tenure. In Area 'F' the population is 50 percent male, 50 percent female. The sample underrepresents males somewhat, as only 43 percent of respondents were male, while 57 percent were female. The following table indicates that, on an overall basis, the age breakdown of respondents provides a reasonably accurate representation of the Area 'F' population:

<u>Age Group</u>	<u>% of Area 'F' Population in Age Group</u>	<u>% Respondents in Age Group</u>
19 - 24	8	2
25 - 34	21	18
35 - 44	24	24
45 - 54	16	21
55 - 64	13	19
65+	18	16

The survey underrepresents renters - only 10 percent of respondents rented their home, while 19 percent of the Area 'F' population rents. This underrepresentation, as noted previously, is at least partially due to the method of sample selection associated with the telephone interview.

Results

A complete tabulation of responses to the questions is provided in Appendix I.

The results provide a clear indication of general attitudes to various land uses, the importance of various issues and the level of community support for some form of local control over land use and development.

Peace and quiet, the rural atmosphere, access to town, the lake, views and good neighbourhoods were the most frequently given reasons why residents like living in Electoral Area 'F' (see Table 1, Appendix I). A fairly wide range of problems were mentioned (see Table 2, Appendix I); however, most respondents stated there were no important problems in their neighbourhood. Further, 97 percent of the respondents provided reasons why they liked the neighbourhood, compared with 86 percent who responded to the question about problems in the neighbourhood. It can be concluded from these responses that Area 'F' is perceived by residents to be a very desirable place to live.

Protection of community watersheds was the prime concern of the majority of respondents, rating an average importance of 9.3 on a scale of ten. In fact,

40 of 86 respondents to this question ranked this item as a 10. Protection of views and maintenance of property values are issues of considerable importance to respondents. Items such as protection of historic sites, preservation of agricultural land, improvement of the road system and the need to set aside additional park land were moderately important on average. Respondents clearly felt the need for more commercial services or industrial land in their neighbourhoods as unimportant, as indicated in the respective average ratings of 3.2 and 2.1. As noted in Table 3 of Appendix I, other issues revolved around environmental concerns and provision of services; with logging, environment, pollution and fire protection being the most frequently mentioned issues.

Given the response to the questions about what residents like about their neighbourhood and what they perceive as problems, the results with respect to the types of development respondents would favour or disfavour on a hypothetical vacant property next to their own present few surprises. Single family residences, parks, bed and breakfast accommodations and senior citizens' homes were the most tolerated land uses (those which individuals either favoured or did not care about locating next door). Scrap metal yards and portable sawmills were the most disfavoured, followed by fast food restaurants and 7-11 type convenience stores. Statistical analysis indicated there was no significant difference between responses from persons living on lots of less than one acre and those residing on lots greater than one acre. The following table outlines the most tolerated and most disfavoured uses:

<u>Most Tolerated</u>	<u>Percentage Favours or Not Caring</u>		
	< 1 acre (n = 53)	> 1 acre (n = 37)	Total (n = 90)
single family house	98.1	91.9	95.6
park or playground	84.3	75.7	80.1
bed and breakfast home	83.0	75.7	80.0
senior citizens' home	76.9	72.2	75.0
day-care facility	64.2	67.6	65.6
duplex	63.5	62.2	62.9
church	58.5	63.9	60.7

<u>Most Disfavoured</u>	<u>Percentage Disfavouring</u>		<u>Total</u> (n = 90)
	< 1 acre (n = 53)	> 1 acre (n = 37)	
scrap metal yard	92.5	91.9	92.2
portable sawmill	88.7	91.9	91.0
fast food restaurant	84.9	89.2	86.7
7-11 type convenience store	88.5	83.8	86.5
poultry farm	88.7	78.4	84.4
autobody shop	84.9	83.8	84.4
motel	78.8	83.8	80.9
gas station	82.7	75.7	80.1
warehouse	71.7	70.3	72.7
mobile home park	63.5	77.8	69.3
apartments/townhouses	66.0	64.9	65.5
fourplex	63.5	62.2	62.9
school	54.0	63.9	58.1

In several instances respondents qualified their answers, stating their opinion about a particular use would be based on its scale, design, distance of the activity area from their property, standards of operation, etc. However, the results indicate definite disfavouring of commercial and industrial uses in close proximity to respondents' residences. Table 4, Appendix I shows that noise is the major reason some land uses are disfavoured by residents in close proximity to their homes. Incompatibility with a residential area, traffic, intrusion on privacy, decreases in property values and unsightliness were other frequently given responses why non-single family residential neighbourhood uses tended to be disfavoured.

Only 4 of 90 respondents stated they would favour or not care about any of the land uses locating next door. In general, the feelings of these people could be summed up in the comment that if the uses are maintained properly they have every right to be there. While 86 of 90 respondents disfavoured at least one land use locating on the hypothetical vacant property next door, only 64 agreed, in principle, with the idea of some local public control of land use and development. Thus, disfavouring a land use and being prepared to accept

public control over land development are two different issues. Several respondents stated that public control should be limited, public involvement is necessary and full fledged zoning is not needed (see Table 5, Appendix I).

Given the history of concern regarding planning in Area 'F', the general support for local public control received from 71 percent of the respondents was not anticipated. The response of persons living on lots greater than one acre was also not anticipated - 81 percent agreed with the principle of local control of land use and development. This compares with 64 percent agreement from respondents living on lots smaller than one acre.

Conclusions

Four conclusions can be drawn from the analysis of the Area 'F' survey results. First, survey respondents place high value on the quality of living in Electoral Area 'F' - enjoyment of peace and quiet in a beautiful location that is out of town yet accessible to services and employment. Responses to each question indicate a strong desire to preserve this environment and the lifestyles associated with living in Area 'F'.

Second, a very strong consensus was expressed about the need to protect community watersheds. Because of the very general wording of the questionnaire on this issue, however, additional information will be required to clarify the specific nature of residents' concerns and to identify possible alternative courses of action.

Third, respondents want the residential character of their neighbourhoods preserved. It was clearly indicated that certain commercial and industrial land uses are incompatible in the immediate vicinity of respondents' residences. Disfavour was expressed even about some land uses typically found in residential areas such as schools, apartments and mobile homes parks. The most favoured uses were other single family homes, parks, bed and breakfast homes - uses that are typically associated with single family residential neighbourhoods.

Fourth, the primary conclusion resulting from this study is that there is a substantial degree of support for the principle of local control of land use and development in Area 'F'. It can also be concluded that this support relates to basic land use planning - excessive land use regulation is not wanted. Comments from respondents indicate that planning is desired, within limits, especially to provide residents an opportunity for input regarding land use changes in their neighbourhoods.

Regional District of Central Kootenay

AREA 'F' RESIDENT SURVEY

January, 1989

Hello, my name is _____. I am helping to conduct a survey of Area 'F' residents on behalf of the Regional District of Central Kootenay.

The purpose of this survey is to identify residents' attitudes about land uses and issues in Area 'F' to help us make a decision about whether or not to initiate a community planning program in your area.

This survey will take about 15 minutes to complete.

If it is convenient right now, would you be interested in participating?

(IF YES, CONTINUE.)

(IF NO, THANK YOU FOR YOUR TIME. GOODBYE.)

IF NECESSARY: All the information gathered through this survey will be kept strictly confidential. The information will be turned into statistics about the people who responded as a whole. For example, "the percentage of respondents who own their own home".

No. _____

First, we would like to ask you some questions about your residence in the community:

01. What is the name of this neighbourhood?

Area 1 - 16; Area 2 - 17; Area 3 -40; Area 4 - 17 **01**

West of Johnstone Nasookin East of
Taghum Rd. 3 Mi. 6 Mi. 6 Mi.
Bridge

02. What is the most important reason you like living in this neighbourhood?

See Table 1 **02**

03. As you see it, what is one important problem in the neighbourhood?

See Table 2 **03**

04. Do you own this home, are you buying it, do you pay rent, or what?

own or buying 81 **04**

rent 9 **05**

other - **06**

Table 1 - Responses to Question 02: What is the most important reason you like living in this neighbourhood?

	Times Mentioned*
quiet/peaceful	20
close to lake/waterfront	14
accessibility to town/work	13
out of town	11
scenery/view	11
country living	9
good neighbourhood	9
beautiful location/environment	8
little traffic	5
large lot size	4
privacy	4
love it here/Kootenays	3
dwelling	2
crime free	2
don't like living here	2
local conformity	1
retired	1
taxes in town too high	1
better home for the price	1
born and raised here	1
good water system	1
lower cost of living	1
trailer allowed	1

* in numerous instances, respondents provided more than one reason.

Table 2 - Responses to Question 03: As you see it, what is one important problem in the neighbourhood.

	Times Mentioned
none	38
water system	7
logging	6
fire protection	4
alluvial fan	4
don't like mobile home park	2
street lighting	2
road repair/maintenance	2
increased traffic/speeding	2
overbuilt area	2
dogs and cats roaming	2
lack of public transportation	2
sewage disposal	2
road access (side road)	1
unemployment	1
lack of cablevision	1
unsociable neighbour	1
school busing	1
geese	1
utilities	1
creek	1
property taxes for land that can't be built on	1

Next, we would like to obtain your views about the importance of a number of land use matters as you feel they relate to this neighbourhood.

05. On a scale of 1-10, with 10 being the highest, or most important, how would you yourself rate the importance of the following to this neighbourhood:

	Average	#Resp.
(a) protection of community watersheds?	<u>9.3</u>	07 (86)
(b) improvement of the road system?	<u>5.8</u>	08 (86)
(c) protection of historic sites and buildings?	<u>6.6</u>	09 (81)
(d) preservation of agricultural land?	<u>6.7</u>	10 (81)
(e) maintenance of property values?	<u>7.2</u>	11 (89)
(f) reserve additional lands for parks?	<u>6.4</u>	12 (82)
(g) protection of views	<u>8.2</u>	13 (88)
(h) need for more commercial services in this neighbourhood	<u>3.2</u>	14 (83)
(i) need for more industrial land in this neighbourhood	<u>2.1</u>	15 (85)
(j) any other issue? (specify)		

See Table 3

Table 3 - Responses to Question 05 (j): other issues.

Issue	Times Mentioned
logging	9
environment/pollution	5
fire protection	4
alluvial fan	3
recycling	2
transportation	2
sewage disposal	2
cablevision service	2
natural gas service	2
community planning	2
road maintenance	1
roads widened for pedestrians	1
waste management	1
burning restrictions	1
senior housing/care facilities	1
noise control	1
pets harassing wildlife	1
more facilities for youth	1
retirement centre/tourism	1
industrial, yes if more jobs	1
historic buildings need to be used rather than preserved as relics	1

Next, we would like to obtain your opinion about future development in your neighbourhood.

06. What I would like you to do is to suppose the property next door to you is vacant. I am going to read a list of different uses to which this property might be put. For each use I read, I would like you to indicate your initial reaction as to whether you would favour, disfavour, or whether you wouldn't care if that land use located next door:

(a)	single family house_____	favour_____	73	17
		disfavour_____	4	18
		don't care_____	13	19
(b)	fourplex_____	favour_____	22	20
		disfavour_____	56	21
		don't care_____	11	22
(c)	mobile home park _____	favour_____	15	23
		disfavour_____	61	24
		don't care_____	12	25
(d)	7-11 type convenience store_____	favour_____	6	26
		disfavour_____	77	27
		don't care_____	6	28
(e)	motel_____	favour_____	7	29
		disfavour_____	72	30
		don't care_____	10	31
(f)	scrap metal yard_____	favour_____	1	32
		disfavour_____	83	33
		don't care_____	6	34

(g)	bed and breakfast home_____	favour_____	59	35
		disfavour_____	18	36
		don't care_____	13	37
(h)	park or playground_____	favour_____	64	38
		disfavour_____	17	39
		don't care_____	7	40
(i)	warehouse_____	favour_____	12	41
		disfavour_____	64	42
		don't care_____	14	43
(j)	apartments or townhouses_____	favour_____	20	44
		disfavour_____	57	45
		don't care_____	10	46
(k)	gas station_____	favour_____	10	47
		disfavour_____	72	48
		don't care_____	7	49
(l)	school_____	favour_____	27	50
		disfavour_____	50	51
		don't care_____	9	52
(m)	senior citizen's home_____	favour_____	55	53
		disfavour_____	22	54
		don't care_____	11	55

(n)	fast food restaurant_____	favour_____	5	56
		disfavour_____	78	57
		don't care_____	7	58
(o)	church_____	favour_____	41	59
		disfavour_____	35	60
		don't care_____	13	61
(p)	day care facility_____	favour_____	46	62
		disfavour_____	31	63
		don't care_____	13	64
(q)	portable sawmill_____	favour_____	2	65
		disfavour_____	81	66
		don't care_____	7	67
(r)	duplex_____	favour_____	48	68
		disfavour_____	33	69
		don't care_____	8	70
(s)	poultry farm_____	favour_____	6	71
		disfavour_____	76	72
		don't care_____	8	73
(t)	auto body shop_____	favour_____	6	74
		disfavour_____	76	75
		don't care_____	8	76

IF 'NOT IN FAVOUR' TO ONE OR MORE OF THE ABOVE USES, ASK QUESTION NUMBER 8.
IF RESPONDENT DOES NOT INDICATE 'NOT IN FAVOUR' TO ANY USES, SKIP TO QUESTION NUMBER 9.

07. You responded that you would not be in favour of certain uses locating next door. For what reasons?

See Table 4	
_____	77

_____	78

_____	79

GO TO QUESTION 10.

08. You responded that you either "favoured" or "did not care" about any of the land uses locating next door. For what reasons?

- as long as they are clean and properly looked after	
- every right to be there	80
- rural area	
- important not to control the use of people's own land	81

_____	82

09. In principle, do you agree or disagree with the idea that some local public control of land use and development should take place, realizing this would include certain limitations being placed on the use and development of your own property?

agree	64	83
disagree	18	84
don't know/no opinion	8	85

Comments See Table 5

Table 4 - Reasons not in favour of certain uses locating next door.

	Times Mentioned
noise	44
non-conforming/not suitable in residential area	16
traffic	14
intrude on privacy	9
decrease property value	9
untidy/unsightly	8
pollution	7
lot size too small	7
overpopulation/crowding	6
odours	6
like it the way it is	6
uses already exist/already enough	4
disrupt view	4
hangouts/attract undesirables	4
aesthetics	3
garbage	2
parking	2
topography	1
wouldn't want next door to kids	1
not in my backyard	1
low rentals	1
sewer problems	1

Table 5 - Comments on Question 09, regarding public control of land use and development.

- depends on what restrictions; should not be telling what type of houses; don't be too restrictive
- agree, to an extent
- limited industrial
- fair to everyone else
- on a limited scale, no outright zoning
- don't believe so much money should go into solving public control issues, but some control is necessary
- disagree, should have building codes only
- disagree, stringently regulate use of resources
- agree, very little
- agree, within limitations
- control should be minimal to allow people to use land as they want without being disruptive and affecting land values.

Lastly, we would like to ask a couple of questions about yourself. We need this information in order to describe people who took part in the study:

10. First, how long have you resided at this address?

less than 1 year	<u>7</u>	87
1 - 5 years	<u>22</u>	88
5 - 10 years	<u>16</u>	89
more than 10 years	<u>45</u>	90

11. which of the following age groups is applicable to you?

19 - 24 years	<u>2</u>	91
25 - 34	<u>16</u>	92
35 - 44	<u>22</u>	93
45 - 54	<u>19</u>	94
55 - 64	<u>17</u>	95
65+	<u>14</u>	96

12. Is the lot you live on:

less than 1/2 acre	<u>41</u>	97
less than 1 acre	<u>12</u>	98
between 1 and 5 acres	<u>26</u>	99
greater than 5 acres	<u>11</u>	100

13. Sex of respondent:

male	<u>39</u>	101
female	<u>51</u>	102

14. Is the type of dwelling you live in a:

single family house	<u>72</u>	103
mobile home on individual lot	<u>2</u>	104
apartment or townhouse	<u>4</u>	105
duplex	<u>1</u>	106
mobile home in mobile home park	<u>11</u>	107
other (specify)	<u>0</u>	
		108

That concludes the survey. Again, thank you for your cooperation.

Good-bye.

jk:question.f

APPENDIX 3

Regional District of Okanagan-Similkameen

FARLEIGH LAKE/SHATFORD CREEK

RURAL LAND USE

BYLAW NO. 984, 1987

Regional District of Okanagan-Similkameen

Farleigh Lake/Shatford Creek
Rural Land Use Bylaw

I N D E X

BYLAW

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Regional District of Okanagan-Similkameen

FARLEIGH LAKE/SHATFORD CREEK
RURAL LAND USE
BYLAW NO. 984, 1987

A Bylaw to guide the use and development of land in the Farleigh Lake-Shatford Creek-Apex Mountain Rural Planning Area pursuant to Part 29 of the Municipal Act of British Columbia.

The Regional Board of the Regional District of Okanagan-Similkameen in open meeting duly assembled, ENACTS as follows:

1. TITLE

This Bylaw may be cited for all purposes as the "Farleigh Lake/Shatford Creek Rural Land Use Bylaw No. 984, 1987."

2. APPLICATION

This Bylaw applies to the Farleigh Lake-Shatford Creek-Apex Mountain Rural Planning Area, as designated by the Minister of Municipal Affairs on June 24, 1986 and as shown by map reference on Schedule B, which is attached hereto and forms part of this Bylaw.

The provisions of this Bylaw include:

Schedule A - Farleigh Lake/Shatford Creek Rural Land Use Bylaw Objectives, Policies and Land Use Regulations;

Schedule B - Farleigh Lake-Shatford Creek-Apex Mountain Rural Planning Area Land Use Designation Map;

Schedule C - Aggregate Resources Map;

attached hereto and forming part of this Bylaw, and constitute the Regional District of Okanagan-Similkameen Farleigh Lake/Shatford Creek Rural Land Use Bylaw.

3. PURPOSE

The purpose of this Rural Land Use Bylaw is to provide a statement of the objectives, policies and regulations with respect to existing and future land use and development in the Farleigh Lake-Shatford Creek-Apex Mountain Rural Planning Area, hereafter referred to as the Plan Area.

4. Those portions of Electoral Area D Zoning Bylaw No. 100 pertaining to the Farleigh Lake/Shatford Creek Rural Planning Area identified on Schedule B of this Bylaw are hereby rescinded.

READ a FIRST TIME this 20th day of August , 1987.

READ a SECOND TIME this 20th day of August , 1987.

PUBLIC HEARING HELD pursuant to Section 956 of the Municipal Act this 15th day of September , 1987; adjourned then reconvened this 8th day of October , 1987.

READ a THIRD TIME this 22nd day of October , 1987.

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 984 cited as the "Regional District of Okanagan-Similkameen Farleigh Lake/Shatford Creek Rural Land Use Bylaw No. 984, 1987, as read a THIRD time by the Regional Board on the 22nd day of October , 1987.

Dated at Penticton, B.C. this day of , 1987.

Secretary

APPROVED by the Minister of Municipal Affairs this day of , 1987.

Minister of MUNICIPAL AFFAIRS

RECONSIDERED AND ADOPTED this 17th day of December , 1987.

Chairman

Secretary

BYLAW NO. 984

SCHEDULE A

FARLEIGH LAKE/SHATFORD CREEK RURAL LAND USE BYLAW

Chairman

Secretary

A.0 PART A - ADMINISTRATION AND INTERPRETATION

A.1 ADMINISTRATION

A.1.1 Bylaw Amendment and Review

The Farleigh Lake/Shatford Creek Rural Land Use Bylaw will be amended as necessary, and a thorough review will be conducted at least once every five years.

A.1.2 Prohibition

Subject to the provisions of the Agricultural Land Commission Act and Section 970 of the Municipal Act, land, including the surface of water, shall not be used, occupied or subdivided, and likewise buildings or structures shall not be constructed, altered, located or used, contrary to the provisions of this Bylaw.

A.1.3 Enforcement

The Planning Director and Building Inspector, or such other person appointed by the Regional Board, shall administer this Bylaw and may enter any building, premises or property at any reasonable time for the purpose of administering or enforcing this Bylaw.

A.1.4 Violation

- 1) It is unlawful for any person to cause, suffer or permit any building or structure to be constructed, reconstructed, altered, located, extended or used, or land to be used, in contravention of this Bylaw.
- 2) It is unlawful for any person to prevent or obstruct any official appointed under subsection A.1.3 from carrying out duties consistent with this Bylaw.

A.1.5 Penalty

- 1) Any person who contravenes any provision of this Bylaw is guilty of an offence punishable by way of summary conviction to a fine not exceeding \$2,000.00 plus the cost of prosecution.
- 2) Each day's continuance of an offence under this Bylaw constitutes a new and distinct offence.

A.1.6 Severability

If any section, subsection, clause or phrase of this Bylaw is held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.

A.2 INTERPRETATION

For the purposes of this Bylaw all words, terms and expressions contained herein shall be interpreted in accordance with the following definitions unless the context otherwise requires:

ACCESSORY BUILDING - means a building whose use is incidental and secondary to that of the principal building which is located or being erected on the same lot;

ACCESSORY USE - means a use which is ancillary or incidental to a principal use on the same lot;

AGRICULTURE - means the growing, rearing, producing, keeping, or harvesting of primary agricultural products, and includes the processing of primary agricultural products reared, produced, or harvested on the parcel;

BUFFER - means any space, structure or object, whether natural or artificial, which is used to separate different land use activities or a land use activity and a portion of the natural environment such as a lake or stream;

BUILDING - means any roofed structure used or intended for supporting or sheltering any use or occupancy;

COMMUNITY WATER SYSTEM - means a system of waterworks that services two or more parcels and which is owned and operated by a regional district, an improvement district under the Water Act or Municipal Act, or which is regulated under the Water Act, Water Utilities Act, or the Utilities Commission Act;

DESIGNATED FLOOD - means a flood, which may occur in any given year, of such magnitude as to equal a flood having a 200 year recurrence interval based on a frequency analysis of unregulated historic flood records;

DETACHED ACCESSORY BUILDING - means an accessory building that is detached from the principal building to which it is accessory;

DWELLING - means a self-contained set of habitable rooms containing living quarters and kitchen and sleeping facilities for only one family, and which complies with the British Columbia Building Code;

EXTERIOR LOT LINE - means any lot line common to a highway other than a lane, which is not a front lot line;

FAMILY - means:

- a) two or more persons related by blood, marriage, adoption or foster parenthood sharing one dwelling; or
- b) not more than five unrelated persons sharing one dwelling;

FLOODPLAIN - means an area of land, whether floodproofed or not, which is susceptible to flooding by a watercourse, lake, or other body of water;

FLOOR AREA - means the total floor area measured to the outer limits of a building, and includes all areas giving access to the building, such as corridors, hallways, landings, foyers, elevators, staircases, stairwells, enclosed balconies and mezzanines, enclosed porches and verandas, and excludes uncovered parking space, unenclosed swimming pools, balconies and sun decks;

GRADE - (as applying to the determination of building height) means the average level of finished ground adjoining each exterior wall of a building. Any localized mounds or depressions such as for vehicle or pedestrian entrances need not be considered in the determination of the average level of finished ground;

GUEST COTTAGE - means a single family dwelling not exceeding 45 m² in floor area which is accessory to a principal single family dwelling or a mobile home on the same lot and which is used exclusively for the temporary, non-profit accommodation of guests;

HEIGHT - means the vertical distance from the grade to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the mean level between the eaves and the ridge of a gable, hip, gambrel or other sloping roof, or in the case of a structure without a roof, to the highest point of the structure;

HOME OCCUPATION - means an occupation or profession carried on as an auxiliary use in a building, and does not include restaurants, commercial stables, kennels, or animal breeding for commercial purposes;

INTENSIVE AGRICULTURE - means the use of land, buildings or structures by a commercial enterprise or an institution for:

- a) the confinement of poultry, livestock or fur-bearing animals; or
- b) the growing of mushrooms;

LOT - means any parcel of land of record in the Kamloops Land Titles Office of the Kamloops Land Registration District;

MOBILE HOME - means any structure, manufactured to the standards of the Canadian Standards Association, containing one dwelling whether ordinarily equipped with wheels or not, and which is designed, constructed or manufactured to be moved from one place to another by being towed or carried, but does not include travel trailers, campers or other vehicles exempt from the provisions of the Mobile Home Act;

NATURAL BOUNDARY - means the visible high watermark of any lake, river, stream or other body of water where the presence and action of the water at the time of measurement are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, stream or other body of water a character distinct from that of the banks thereof in respect to vegetation as well as in respect to the nature of the soil itself. In addition, the natural boundary includes the best estimate of the edge of dormant or old side channels or marsh areas;

OFF-STREET PARKING - means space for the parking of motor vehicles other than on a public right-of-way;

ON-SITE SEWAGE DISPOSAL - means disposal of sewage on the parcel being serviced;

ON-SITE WATER SUPPLY - means a water supply from a well located on the parcel being served, or from a system which provides water under licence, easement or other form of tenure to a parcel from another source, be it surface or ground water;

PARCEL - means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

PRINCIPAL BUILDING - means a building or mobile home in which the major proportion of floor area is used for a principal use;

PUBLIC FACILITY - means a fire hall, community hall, school, public park and similar buildings, structures or spaces intended for public use;

PUBLIC USE - means land, buildings or facilities provided by a government or an agency of government for public park and recreation purposes, education, health, welfare, administration, safety, communications or public works;

PUBLIC UTILITY - means broadcast transmission, electrical, telephone, sewer, water or similar services established by a government or a utility company, and does not include oil or gas storage tanks, buildings intended for the repair and maintenance of equipment, or a public storage and works yard;

ROWHOUSE - means a lateral series of more than two and not more than six individual single family dwellings with a common or adjacent wall between adjacent dwellings and each dwelling having individual front and rear entrances;

SERVICE STATION - means premises used principally for the retail sale of motor fuels, lubricating oils and motor vehicle accessories, retail sales by way of vending machines and the servicing of motor vehicles, but does not include other retail sales, wholesale sales, or motor vehicle structural or body repairs or painting;

SETBACK - means the minimum required distance between a class of structure specified in this Bylaw and a specified lot line;

SIGN - means a surface or space, whether continuous or not, which attracts the attention of, or conveys a message to, any person by means of letters, numbers, figures, or other symbols, devices or representations;

SILVICULTURE - means the growing and tending of trees as a branch of forestry;

SINGLE FAMILY DWELLING - means a dwelling which is not physically attached to any other dwelling;

SITE - means any parcel of land having an area sufficient to satisfy the provisions of this Bylaw;

STRUCTURE - means a construction of any kind, whether fixed to, supported by, or sunk into land or water, and includes, but is not limited to, buildings, fences and signs;

TOWNHOUSE - means a building not more than three stories high divided into three or more dwelling units located side by side under one roof with private exits or entrances to each dwelling, with each dwelling sharing common walls or party walls;

TRAVEL TRAILER - means any vehicular portable structure which is designed as a temporary dwelling for travel, recreation or vacation uses;

WATERCOURSE - means any natural or artificial depression with well defined banks and a bed 0.6 m or more below the surrounding land, serving to give direction to a current of water at least six months of the year or draining an area of 2 km² or more upstream of the point of consideration.

1.0 PART I - OBJECTIVES AND POLICIES

1.1 PREAMBLE

The objectives and policies of the Regional Board for this Bylaw have been developed in consultation with relevant government agencies, area residents and concerned citizens in order to deal with development issues identified in an analysis of the Plan Area.

1.2 OBJECTIVES

- 1) To promote a rural lifestyle that is compatible with the natural capabilities of the local environment.
- 2) To preserve and enhance the agricultural potential of the Plan Area.
- 3) To promote orderly development of the recreational potential within the Apex-Alpine area through the creation of flexible development policies.
- 4) To promote economic growth within the Plan Area.
- 5) To ensure a continued dialogue with residents in order to assist in providing services as required.
- 6) To promote public safety and health.
- 7) To encourage the preservation and enhancement of the visual landscape, fish and wildlife habitat, and general environmental quality.
- 8) To encourage the protection of heritage features and sites.

1.3 POLICIES

1.3.1 Resource Management

- 1) The Resource Area designation may include both private and Crown land.
- 2) Since much of the Plan Area is within the Okanagan Provincial Forest, the Regional District shall:
 - a) recognize that the Ministry of Forests and Lands has jurisdiction over the management and use of Provincial forest lands with respect to:
 - i) timber production, utilization and related purposes;
 - ii) forage production and grazing by livestock and wildlife;
 - iii) forest oriented recreation; and
 - iv) water, fisheries and wildlife resources purposes;
 - b) continue to promote dialogue with appropriate agencies to ensure an awareness of future development proposals that may impact the Plan Area.

- 3) Where possible, the Regional District shall request the Ministry of Forests and Lands to give consideration to:
 - a) reducing the visual impact of logging;
 - b) minimizing the erosional impact of forestry activities on the Plan Area.
- 4) Lands designated as Resource Area shall be kept in large parcel sizes in order to preserve the rural character of the Plan Area.
- 5) In all land use designations the Regional District encourages the retention of a 5 m wide strip of shrub vegetation as a buffer zone on both sides of Shatford Creek.
- 6) The use of fencing or stockbarriers to keep livestock or wildlife off private land is the responsibility of the landowner.
- 7) The Regional District recognizes the jurisdiction of the Ministry of Forests and Lands for Crown rangeland management.

1.3.2 Provincial Parks and Recreation Areas

The Regional District shall discourage the exploration and development of mineral deposits and the harvesting of timber within Provincial parks and Provincial recreation areas, unless these activities are carried out in such a manner as to preserve the recreational and aesthetic qualities of the Apex Mountain Recreation Area and the Apex Alpine Ski Resort.

1.3.3 Agriculture

Agriculture is an important economic activity in much of the Plan Area. While the relatively low land capability limits development options, agriculture enjoys strong support from the public and provides for a stabilizing effect in the local economy. As such, the following policies have been developed.

- 1) All land which could potentially be used for productive agricultural purposes shall be designated as Agriculture.
- 2) All land presently being cultivated or used for intensive agricultural production shall be designated as Agriculture.
- 3) The Regional District shall discourage the subdivision and fragmentation of lands designated as Agriculture.
- 4) Where land is in the Agricultural Land Reserve, it is the policy of the Regional District to recognize that all uses and subdivision of Reserve lands shall be in accordance with the provisions of the Agricultural Land Commission Act, regulations thereto, and General Orders of the Commission.
- 5) The Regional District shall continue to support the growth and development of agricultural operations.

1.3.4 Public Service

- 1) The Regional District will attempt to meet the public service needs of Plan Area residents, subject to majority support of Plan Area residents through petition or the referendum procedure.
- 2) Public service facilities and utilities will be permitted within the Plan Area, provided that the location is not in conflict with adjacent land uses and users.

1.3.5 Residential (includes LH, RR1, RC1 and MU designations)

The residential policies of the Plan Area will be delineated in two sections in order to provide for the distinct rural needs of the Farleigh Lake/Shatford Creek area and the semi-urban requirements of the Apex Alpine Ski Resort.

1) The Farleigh Lake/Shatford Creek Area

- a) The Large Holdings (LH) and Rural Residential (RR1) designations are intended to reflect existing development.
- b) Expansion of the LH and RR1 areas is not encouraged at this time due to:
 - the physical limitations of the remaining non-agricultural portions of the Plan Area; and
 - the public consensus that expansion would be incompatible with the rural character of the area.

2) The Apex Alpine Ski Resort

- a) The Resort Cottage (RC1) and the Mixed Use (MU) designations are to be utilized only within the Apex Alpine Ski Resort.
- b) The Mixed Use designation has been developed in compliance with the Apex Alpine Resort Area Master Plan in order to provide flexibility in accommodating high density seasonal housing and appropriate commercial enterprises, and to help promote economic stability in the resort community.

1.3.6 Rural Resort

The Regional District recognizes the existing Land Use Contract for the development of a tourist resort in the Rural Resort (RE) designation.

1.3.7 Transportation

- 1) Major roads through the Plan Area include Apex Mountain Road, Green Mountain Road and a portion of Nickle Plate Road, as shown on Schedule B.
- 2) Major roads through the Plan Area are to be continuous with major roads outside the Area.
- 3) The development and use of local and collector roads to access land is encouraged.

- 4) Off-set 'T' intersections with major roads are to be avoided. Cross-intersections are preferred, and should be properly spaced along the major roads.
- 5) All roads are to be constructed to the design standards of the Ministry of Transportation and Highways.
- 6) Continuous strip development along major roads is discouraged in order to achieve a more efficient use of land and a proper distribution of traffic flow throughout the road network.
- 7) It is recognized that the limited population and low density of development in the Plan Area does not warrant public transit service.
- 8) Minimum right-of-way widths are 20 m for local roads and collectors, and 25 m for major roads.
- 9) The following definitions are recognized:
 - a) major roads accommodate the major traffic movements within the Plan Area for current and future needs;
 - b) collector roads are intended to collect the traffic of the various local roads within the Plan Area and direct it to the major roads;
 - c) local roads are exclusively intended to provide access to adjacent properties.

1.3.8 Hazard Lands

- 1) Lands adjacent to watercourses may be subject to flooding. Where possible and where permitted by this Bylaw, lands subject to a general liability to flood should be used only for parks, open space recreation or agricultural uses. Development of such lands for other uses is discouraged.
- 2) Where there is no alternative land available, and floodable land is required for development, the construction and siting of buildings and mobile homes to be used for habitation, business, or the storage of goods damageable by floodwaters shall be floodproofed to standards specified by the Ministry of Environment and Parks, and as setforth in Part II of this Bylaw.
- 3) Notwithstanding the above, floodproofing to less than those standards specified by the Ministry of Environment and Parks shall be permitted for farm dwelling units on parcel sizes greater than 8 ha located within the Agricultural Land Reserve, and for closed-sided livestock structures.
- 4) Floodproofing shall not be required for farm buildings other than dwelling units and closed-sided livestock structures.

- 5) Development on lands which may be subject to a potential natural hazard or deemed hazardous due to soil conditions, topography or subsidence, will be discouraged until detailed studies have been completed to the satisfaction of the appropriate authority.

1.3.9 Heritage Resources

- 1) The Heritage Conservation Branch of the Ministry of Tourism, Recreation and Culture and other interest groups will be assisted where possible in identifying and protecting features and sites of paleontological, scenic, architectural, historic or archaeological significance within the Plan Area.
- 2) Developers will be encouraged to consider heritage resource concerns in project planning and design.
- 3) With respect to development that could affect a designated heritage object or site in a manner specified in the Heritage Conservation Act, the Regional District shall notify the Heritage Conservation Branch about such development prior to issuing a development or building permit.
- 4) The locations of heritage objects and sites are identified on Schedule B of this Bylaw.

1.3.10 Resource Extraction

- 1) It is recognized that the Ministry of Energy, Mines and Petroleum Resources is responsible for administering the energy and mineral resources of the province.
- 2) The Regional District encourages the restoration of exhausted gravel pits and other resource extraction sites in order to preserve the natural visual landscape.

2.0 PART II - LAND USE REGULATIONS

2.1 GENERAL REGULATIONS, REQUIREMENTS AND PROVISIONS

Except as otherwise specified in this Bylaw, sections 2.1.1 to 2.1.21 inclusive apply to all land use designations established under this Bylaw.

2.1.1 Floodplain Provisions

- a) Notwithstanding any other provisions of this Bylaw, no building or part thereof shall be constructed, reconstructed, moved or extended, nor shall any mobile home or unit, modular home or structure be located:
 - i) within 7.5 m of the natural boundary of a lake, swamp or pond;
 - ii) within 15 m of the natural boundary of any other watercourse;
 - iii) with the underside of a wooden floor system or top of a concrete slab of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a mobile home or unit the ground level or top of a concrete or asphalt pad on which it is located, lower than 1.5 m above the natural boundary of a lake, swamp, pond or any other watercourse.
- b) The required elevation may be achieved by structural elevation of the dwelling, business or storage area, or by adequately compacted landfill on which any building is to be constructed or mobile home or unit located, or by a combination of both structural elevation and landfill. No area below the required elevation shall be used for the installation of furnaces or other fixed equipment susceptible to damage by floodwater.
- c) Where landfill is used to achieve the required elevation stated in clause (iii) above, no portion of the landfill slope shall be closer than the distances in clauses (i) & (ii) from the natural boundary, and the face of the landfill slope shall be adequately protected against erosion from floodwaters.
- d) Clauses (a) (iii), (b) and (c) above shall not apply to:
 - i) a renovation of an existing building or structure that does not involve an addition thereto, or an addition to a structure that would increase its size by less than 25% of the floor area existing at the date of adoption of Regional District of Okanagan Similkameen Amendment Bylaw No. 652;
 - ii) that portion of a structure to be used as a carport or garage;

- iii) farm buildings other than dwelling units and closed-sided livestock housing. Farm dwelling units on parcel sizes greater than 8 ha and within the Agricultural Land Reserve are exempt from the requirements of clause (a) (iii), but if in a floodable area shall be elevated 1 m above the natural ground elevation. Closed-sided livestock housing shall be elevated 1 m above the natural ground elevation;
- iv) industrial development which is required to floodproof to the Designated Flood Level.
- e) Where a parcel of land is of such a size or shape or is so located that because of the requirements of this Bylaw no usable site exists on the parcel for a structure, the structure may be built or located on the parcel with reduced siting provisions as specified by the Minister of Environment and Parks. The recommended requirements for protection from flooding and erosion would then be specified in a development variance permit issued by the Regional Board.

2.1.2 Environmental Impact Provisions

The environmental impacts of development near Shatford Creek are to be prevented or mitigated by the following regulations:

- 1) stabilization and channelization of the creek is not permitted unless prior approval is received by the Ministry of Environment and Parks and other appropriate government agencies;
- 2) creek crossings are not permitted unless prior approval on location and design is received by the Ministry of Environment and Parks and other appropriate government agencies;
- 3) no building or part thereof shall be constructed, moved or extended to within 35 m of the natural boundary of Shatford Creek.

2.1.3 Agricultural Land Reserve

Where land is in the Agricultural Land Reserve it is subject to the Agricultural Land Commission Act and Orders of the Agricultural Land Commission, in addition to the provisions of this Bylaw.

2.1.4 Home Occupations

Section 2.2 of this Bylaw identifies the land use designations in which home occupations are permitted. A home occupation shall not under any circumstances generate traffic or parking problems within the Regional District, and shall not constitute or produce a public nuisance of any kind.

1) Minor Home Occupation

- a) A minor home occupation is incidental to the use of a dwelling unit for residential purposes. No more than 50 m² of the floor area of the dwelling unit may be used in connection with a minor home occupation.

- b) A minor home occupation is carried on entirely within the principal dwelling unit. No minor home occupation, nor any storage of goods, materials, or products connected with a minor home occupation, shall be allowed external to the dwelling unit.
- c) The minor home occupation is carried on only by the inhabitants of the principal dwelling unit.
- d) No retail sales other than the sale of goods produced on the premises are permitted.

2) Major Home Occupation

- a) A major home occupation is incidental to the use of the property for residential purposes.
- b) A major home occupation may be carried on in the principal dwelling unit and/or in an accessory building.
- c) No more than 50% of the floor area of the principal dwelling unit may be used for a major home occupation. The total floor area utilized for a major home occupation shall not exceed 100 m².
- d) No retail sales other than the sale of goods produced on the premises are permitted.
- e) On parcels 10 ha or larger, external storage of materials, commodities or finished products associated with a major home occupation is permitted in a compact area which does not exceed 200 m². All such storage shall be effectively screened, and the storage area shall be set back at least 30 m from the front lot line and at least 15 m from the side and rear lot lines.
- f) Only the inhabitants of the principal dwelling unit may carry on the major home occupation on the site occupied by the principal dwelling unit, however other people may be employed to work off the site occupied by the principal dwelling unit.

2.1.5 Accessory Buildings

- a) No accessory building shall be situated on a lot unless the principal building to which the accessory building is incidental has been erected or will be erected simultaneously with the accessory building on the same lot.
- b) Accessory buildings are permitted in any land use designation.

2.1.6 Domestic Water Supply

Domestic water is to be supplied to every parcel of land by a community water system, or by individual on-site wells, cisterns or surface water under domestic licence in accordance with Regional District of Okanagan-Similkameen Subdivision Bylaw No. 300 and amendments as of the date of adoption of this Bylaw.

2.1.7 Sewage Disposal

- a) Every residential dwelling, including single family dwellings, mobile homes and guest cottages, as well as commercial and public service buildings, shall be connected to a sewage disposal system approved by the Medical Health Officer, or in the case of sanitary sewers, approval must come from the Waste Management Branch, Ministry of Environment and Parks.
- b) All sewage disposal systems must meet or exceed existing requirements of the Sewage Disposal Regulations pursuant to the B.C. Health Act.

2.1.8 Non-Conforming Parcels

Lots created prior to the adoption of this Bylaw, regardless of area or dimensions, may be used for any of the permitted uses in the appropriate category, provided the method by which sewage is disposed of is satisfactory to the Medical Health Officer or recognized authority.

2.1.9 Non-Conforming Uses

A lawful use of premises existing at the time of the adoption of this Bylaw, although such uses do not conform to the provisions of this Bylaw, may be continued, subject to provisions of the Municipal Act and the Agricultural Land Commission Act regarding non-conforming uses.

2.1.10 Subdivision

- a) All subdivisions shall comply with relevant sections of the Condominium Act, Health Act, Land Title Act, Local Services Act, Municipal Act, Waste Management Act, and Regional District of Okanagan-Similkameen Bylaw No. 300 and amendments as of the date of adoption of this Bylaw.
- b) If a road servicing a subdivision has a length of 250 m or greater, where possible an emergency access or through road shall be made accessible and intersect an adjacent road.

2.1.11 Minimum Parcel Size

The minimum parcel size shall be that specified in each land use designation of this Bylaw unless the parcel being created is:

- a) to be used for public services and utilities or park purposes; or
- b) a consolidation of two or more parcels into one parcel.

2.1.12 Exemption From Minimum Parcel Size

Where for reasons of topography, previous subdivision, physical features including existing structures, or dedication of rights-of-way it is impractical to meet the required parcel size, a reduction of 10% may be granted.

2.1.13 Mobile Homes

Mobile homes constructed prior to 1978 are to comply with subsections 2.1.13 (a) through (e). Those built after 1978 are to comply with CSA standard 2240.2.1 - 1978, Structural Requirements for Mobile Homes. All mobile homes and additions thereto shall comply with subsections 2.1.13 (f) and (g).

- a) All installed mobile homes shall be restrained from moving and be securely anchored against the effects of high winds.
- b) All foundations for the support of mobile homes or permissible additions shall be designed and installed in accordance with the building regulations in effect in the regulated area.
- c) All mobile homes shall be connected to a community sewage collection system or a private sewage collection system.
- d) No mobile home shall be installed and occupied:
 - i) if its electrical installations fail to meet the requirements of the Electrical Safety Act;
 - ii) if the standard of ventilation of its rooms is less than the requirements of the building regulations in effect in the regulated area;
 - iii) if its heating installations fail to meet the requirements of the building regulations in effect in the regulated area.
- e) The following activities shall be conducted in accordance with the requirements of the Gas Safety Act:
 - i) installation and maintenance of all oil-burning equipment and appliances using inflammable liquids as fuel;
 - ii) the storage and disposal of inflammable liquids and oils; and
 - iii) the installation, maintenance, carriage, and use of compressed-gas systems.
- f) All additions and alterations to mobile homes must be in accordance with the building and plumbing regulations in effect in the regulated area.
- g) The plan area of additions to a mobile home shall not exceed the plan area of the mobile home to which the additions are attached, and every addition shall have an exit or access other than through the mobile home.

2.1.14 Campsites

Campsites within the Plan Area are subject to the regulations of Regional District of Okanagan-Similkameen Bylaw No. 713, Campsite and Mobile Home Park Bylaw.

2.1.15 Travel Trailers

- a) One travel trailer may accompany a permitted residential land use on any lot or site. The travel trailer may be used for the short-term accommodation of guests or visitors during the period between June 1 and September 15 of any year.
- b) In the Resource Area, Agriculture, Rural Residential 1, and Large Holdings land use designations one travel trailer is permitted in lieu of a single family dwelling or mobile home, subject to the following conditions:
 - i) the travel trailer must be connected to a private sewage disposal system approved by the Medical Health Officer;
 - ii) no additions to a travel trailer are permitted except for shelters against sun or rain.

2.1.16 Siting Requirements for Buildings

1) Residential Buildings

a) Size

i) Single Family Dwelling

A single family dwelling shall not have a floor area of less than 60 m².

ii) Guest Cottage

A guest cottage shall not have a floor area of more than 45 m².

b) Height Limitations

A residential building shall not exceed a height of 10 m.

c) Setbacks

All residential buildings shall be setback from lot lines according to the requirements stipulated in the appropriate land use designation in section 2.2 of this Bylaw.

2) Accessory Buildings

a) Size

The floor area of an accessory building shall not exceed the ground floor area of the principal building.

b) Height Limitations

Accessory buildings shall not exceed a height of 5 m in the Resort Cottage, Rural Resort and Mixed Use designations, and shall not exceed the height of the principal building in the Large Holdings and Rural Residential 1 designations.

c) Setbacks

Detached accessory buildings shall be separated at least 3 m from the principal building.

3) Farm Buildings and Livestock Buildings

a) Height Limitations

Farm buildings and livestock buildings in the Rural Resort (RE), Rural Residential 1 (RR1) and Large Holdings (LH) land use designations shall not exceed the following height limitations:

i) Rural Resort and Rural Residential:
6 m maximum

ii) Large Holdings: 12 m maximum

b) Setbacks

i) All buildings housing livestock shall be located a minimum distance of 12 m from any dwelling unit.

ii) Commercial kennels, stables, feedlots, manure storage facilities, piggeries, poultry facilities and other intensive agricultural operations shall be set back from:

1) front and rear lot lines: 30 m

2) side lot lines: 15 m

3) exterior lot line: 30 m

4) the natural boundary of a lake or any watercourse: 30 m

2.1.17 Height Exceptions

The following structures are exempt from the height limitations set forth in this Bylaw, provided that their location does not conflict with adjacent land uses or other regulations specified in this Bylaw.

- a) flag pole
- b) chimney
- c) spire
- d) telecommunications mast or antenna
- e) microwave tower
- f) silo
- g) windmill

2.1.18 Livestock Provisions

On any lot in the Rural Residential 1 (RR1) land use designation identified on Schedule B:

- a) the total number of cattle, horses, sheep or other large animals over the age of six months shall not exceed one for each 0.4 ha or fraction thereof;

- b) the total number of fowl, rabbits or other small fur-bearing animals, or the number of colonies of bees, shall not exceed 25 plus one for each 46 m² of lot area in excess of 0.4 ha.

All livestock other than household pets are to be properly housed or caged.

2.1.19 Fencing

On any lot or site no fence shall be more than 1.8 m in height.

Exemption

Lots located in Resource Area or Agriculture land use designations are exempt from the provision of section 2.1.19.

2.1.20 Signs

All signs shall be in compliance with the Motor Vehicle Act, the Highways Act and the following regulations.

- a) No signs or advertising displays shall be permitted other than the following:
 - i) those denoting the name of the owner or the home or address of the property;
 - ii) those denoting a home occupation;
 - iii) those advertising the sale or rental of property;
 - iv) those advertising the sale of agricultural produce grown on the lot on which the sign is situated;
 - v) public utility, public facility and institutional signs;
 - vi) commercial business identification signs.
- b) No sign, except a business identification sign located in a commercial land use designation, shall exceed 0.6 m² in area or 2.4 m in length, and shall be limited to one for each street frontage upon which the lot or site abuts.
- c) For a commercial enterprise in a commercial land use designation only one free-standing business identification sign is permitted, and is subject to the following conditions:
 - i) the sign shall not exceed 4.5 m² in area and is not more than 3 m in length;
 - ii) the sign is set back a minimum distance of 2 m from any lot line.
- d) No sign shall project over a public right-of-way or obstruct sighting of a public road or intersection.
- e) Roof signs and flashing signs are prohibited.

2.1.21 Off-Street Parking

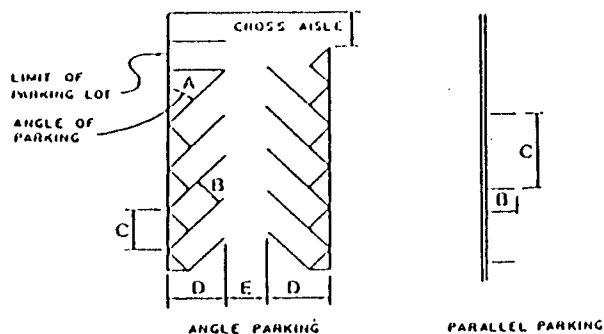
Space for the off-street parking of motor vehicles in respect of a class of building permitted in areas designated as RC1, RE and MU shall be provided and maintained in accordance with the following regulations.

- a) Where the provisions of this Bylaw require a parking area to be comprised of more than 5 spaces:
 - i) each off-street parking space shall be developed according to the dimensions outlined in Diagram 1;
 - ii) the parking area shall be surfaced with asphalt, concrete, brick work or similar materials, and shall have adequate provisions to drain surface water from the parking area. Runoff is not to be drained directly into lakes, streams or any other watercourse;
 - iii) the minimum parking space dimensions outlined in Diagram 1 may be reduced by 20% to accommodate small cars, provided that the spaces are clearly identified, grouped and signed for small car use only. In any parking area containing more than 5 parking spaces, up to 25% of the number of required spaces may be designated for small car use.
- b) Off-street parking space shall be provided as follows:
 - i) buildings containing two or less dwellings:
 - two spaces per dwelling
 - ii) Dwellings in buildings also used for commercial use:
 - sum of the spaces required for the commercial use and for the number and type of dwelling
 - iii) Multi-Unit Apartments and Townhouses:
 - one space per bachelor dwelling, 1.5 spaces per one bedroom dwelling, and two spaces per two or more bedroom dwellings
 - iv) Public Institution and Recreation Buildings:
 - one space for every four seats provided for public seating and/or one per 15 m² of floor area, whichever is applicable
 - v) Hotels:
 - one per two sleeping units plus one per three seats for dining and lounge facilities

- vi) Motels, Resorts, Campsites:
 - one space per rental unit
- vii) Restaurants, Cafes, Taverns, Bars:
 - one space per three seats
- viii) Commercial Retail, Office, Personal Service Buildings:
 - one space per 28 m² of floor area

DIAGRAM 1

Minimum Parking Spaces Dimensions



Angle A	Stall Width B	Curb Width C	Clear Length D	Driveway Width One-Way E	Driveway Width Two-Way F
0 degree	2.7 m	7 m	2.7 m	3.6 m	6.6 m
30 "	2.7 m	5.4 m	5.23 m	3.6 m	6.6 m
45 "	2.7 m	3.81 m	6.01 m	4.1 m	6.6 m
60 "	2.7 m	3.11 m	6.37 m	5.6 m	6.6 m
90 "	2.7 m	2.7 m	6 m	7.2 m	7.2 m

REGULATIONS PERTAINING TO EACH LAND USE DESIGNATION

2.2 LAND USE DESIGNATIONS

2.2.1 List of Land Use Designations

The Farleigh Lake-Shatford Creek-Apex Mountain Rural Planning Area as identified in Schedule B is divided into the land use categories listed in Table I.

TABLE 1

Land Use Designations

<u>Name</u>	<u>Abbreviation</u>
Resource Area	RA
Park and Public Use	P
Agriculture	AG
Large Holdings	LH
Rural Residential 1	RR1
Resort Cottage	RC1
Rural Resort	RE
Mixed Use	MU

2.2.2 Location and Extent of Land Use Designations

The locations of the Land Use Designations established by this Bylaw are identified on Schedule B attached hereto.

2.2.3 Resource Area (RA)

1) Permitted Uses

The following uses and no others are permitted within the area designated as Resource Area (RA):

- a) timber production, utilization and related purposes
- b) agriculture
- c) guest ranches/riding stables
- d) domestic water supply storage facilities
- e) livestock buildings and kennels
- f) single family dwellings and mobile homes, provided that no mobile home has an outside dimension as originally designed and manufactured of less than 3 m
- g) major home occupations
- h) public facilities and utilities
- i) parks and golf courses
- j) mineral and aggregate extraction

- 2) Crown land within the Provincial forest may be managed and used only for those purposes specified in the Forest Act and Provincial Forest Regulations.

3) Regulations

On a parcel located in an area designated as Resource Area (RA), no structure shall be built, located or altered, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings and mobile homes: two per parcel
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Minimum parcel size: 20 ha
- d) Servicing standard: on-site sewage disposal and water supply

2.2.4 Park and Public Use (P)

1) Permitted Uses

The following uses and no others are permitted in the area designated as Park and Public Use (P):

- a) Provincial parks and Provincial recreation areas
- b) Provincial forest recreation sites
- c) other parks
- d) public facilities and utilities
- e) cemeteries

2) Regulations

The following regulations apply only to land uses identified in subsections 2.2.4.1 (c) through (e).

- a) Minimum parcel size: no building shall be erected on any site of less than 0.2 ha
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m

3) Administration

The maintenance, administration and regulation of land and land uses within Provincial parks and Provincial recreation areas is the responsibility of the Ministry of Environment and Parks.

- 4) The Apex Mountain Recreation Area is subject to subsection 2.2.4.3 above.

2.2.5 Agriculture (AG)

1) Permitted Uses

The following uses and no others are permitted in the area designated as Agriculture (AG):

- a) agriculture
- b) storage and sale of agricultural products grown, reared or produced on the same lot or on land of the same ownership
- c) harvesting of trees and the carrying out of all silviculture and forest protection practices
- d) single family dwellings and mobile homes, provided that no mobile home has an outside dimension as originally designed and manufactured of less than 5.5 m
- e) minor home occupations

- f) major home occupations, subject to approval of the Agricultural Land Commission for lands within the ALR
- g) parks and public recreation reserves
- h) ecological and wildlife reserves
- i) gravel extraction, subject to approval of the Agricultural Land Commission for lands within the ALR
- j) public facilities and utilities, subject to approval of the Agricultural Land Commission for lands within the ALR

2) Regulations

Subject to provisions of the Agricultural Land Commission Act, on a parcel located in an area designated as Agriculture (AG) no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings and mobile homes:
 - two per parcel

On a parcel within the ALR a second dwelling is permitted if it is necessary for farm operations. Approval from the Agricultural Land Commission must be obtained prior to placing a second dwelling on a parcel within the ALR if the second dwelling is not necessary for farm operations.
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Minimum parcel size: 20 ha, or as approved by the Agricultural Land Commission
- d) Servicing standard: on-site sewage disposal and water supply

2.2.6 Large Holdings (LH)

1) Permitted Uses

The following uses and no others are permitted in the area designated as Large Holdings (LH):

- a) single family dwellings and mobile homes, provided that no mobile home has an outside dimension as originally designed and manufactured of less than 5.5 m
- b) guest cottages
- c) major home occupations
- d) agriculture, excluding piggeries and feedlots

2) Regulations

On a parcel located in an area designated as Large Holdings (LH), no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings and mobile homes: one single family dwelling and one guest cottage per parcel, or one mobile home and one guest cottage per parcel
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Minimum parcel size: 4 ha
- d) Servicing standards: on-site sewage disposal and water supply

2.2.7 Rural Residential (RR1)

1) Permitted Uses

The following uses and no others are permitted in the area designated as Rural Residential 1 (RR1):

- a) single family dwellings and mobile homes, provided that no mobile home has an outside dimension as originally designed and manufactured of less than 5.5 m
- b) minor home occupations
- c) agriculture, subject to subsection 2.2.7.2 (e)
- d) public facilities and utilities
- e) parks

2) Regulations

On a parcel located in an area designated as Rural Residential 1 (RR1), no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings and mobile homes: one single family dwelling and one guest cottage per parcel, or one mobile home and one guest cottage per parcel
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Minimum parcel area: 0.8 ha

d) Servicing standards: on-site sewage disposal and water supply

e) Agricultural Restrictions:

On any parcel located in an area designated as Rural Residential 1 (RR1), the following activities are prohibited:

- i) commercial kennels
- ii) feedlots
- iii) mink or rabbit farms
- iv) piggeries
- v) stables
- vi) any other commercial animal-rearing operation

2.2.8 Resort Cottage (RC1)

1) Permitted Uses

The following uses and no others are permitted in the area designated as Resort Cottage (RC1):

- a) single family dwellings
- b) public facilities and utilities
- c) parks

2) Regulations

On a parcel located in an area designated as Resort Cottage (RC1), no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings: one per parcel
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Minimum parcel size:
 - i) where an approved public water system is provided, the minimum parcel area is 840 m²
 - ii) where an approved public water system is not provided, the minimum parcel area is 0.4 ha
- d) Minimum site width: 20 m
- e) Servicing standards: on-site or community sewage disposal and water supply

2.2.9 Rural Resort (RE)

The provisions of the Rural Resort designation apply specifically to the area included in R.D.O.S. Land Use Contract LU-7-D.

1) Permitted Uses

The following uses and no others are permitted in the area designated as Rural Resort (RE):

- a) single family dwellings
- b) semi-detached dwellings
- c) rowhouses and townhouses
- d) agriculture
- e) community lodge with guest facilities
- f) recreation facilities, including:
 - i) one pitch and putt golf course
 - ii) tennis courts
 - iii) one playing field
 - iv) one community swimming pool
 - v) one surfaced terrace play area
- g) one community garden and one greenhouse
- h) stables and corrals for horses
- i) one small ski lift

2) Regulations

On a parcel of land designated as Rural Resort (RE), no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of single family dwellings: single family dwellings may be located individually, or in two, three or four unit clusters. No more than 20 units are permitted in the area designated as Rural Resort.
- b) Required building setback from:
 - i) front and rear lot lines: 8 m
 - ii) side lot lines: 3 m
 - iii) exterior lot line: 5 m
- c) Maximum average density of single family dwellings: one unit per hectare
- d) Servicing standards:
 - on-site or community sewage disposal
 - community water supply

2.2.10 Mixed Use

1) Permitted Uses

The following uses and no others are permitted in the area designated as Mixed Use (MU).

- a) multi-unit apartments
- b) buildings containing a commercial use and multi-unit apartments
- c) single family dwellings
- d) hotels
- e) restaurants, cafes
- f) public houses, taverns, bars and night clubs
- g) offices
- h) commercial recreation facilities
- i) retail stores
- j) first-aid stations
- k) personal service establishments including, but not limited to, barber shops, beauty salons, drycleaners, laundromats
- l) recreational vehicle sale, service and rental establishments
- m) gas and other automobile service stations
- n) public facilities and utilities
- o) parking lots

2) Regulations

On a parcel located in an area designated as Mixed Use (MU), no structure shall be built, altered or located, and no subdivision plan approved, which contravenes the following provisions:

- a) Maximum number of buildings: more than one building may be located on a parcel
- b) Building separation: buildings on one parcel shall be separated by a distance of at least 5 metres
- c) Required building setbacks:
 - i) front lot line: 5 m
 - ii) side and rear lot lines: 3 m
 - iii) exterior lot line: 5 m
- d) Servicing standards: approved community water and sewer systems